

# TRANSPORTATION OF DETAINEES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.01</b>	ISSUE DATE: _____
MASSACUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>70.1.1; 70.1.2; 70.1.3; 70.1.4; 70.1.5; 70.1.6; 70.1.7; 70.2.1; 70.3.1; 70.4.1; 70.4.2; 70.5.1</b>	EFFECTIVE DATE: _____
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## I. GENERAL CONSIDERATIONS AND GUIDELINES

The proper transporting and handling of detainees is essential to ensure the safety of both officers and detainees. A person who faces the loss of freedom may become desperate and dangerous. [S]he may be ready to attack and flee at any time the opportunity presents itself.

Escape is not only embarrassing but may also create a serious danger to the community or to other police officers before the detainee is recaptured. At all times, an officer should expect the unexpected. [S]he should not be "lulled" by the apparent cooperation of the detainee. Every precaution should be taken to be prepared to handle sudden dangerous activity. The purpose of the procedures outlined below is to assist an officer in avoiding such problems.

The transportation of detainees by law enforcement officers is a frequent requirement. Detainees are transported under many circumstances, such as transport by the arresting officer immediately after arrest; transfer to or from other agencies or holding facilities; movement of detainees from holding facilities to medical treatment centers; and transfer to court. The adherence to proper procedures for handling and transporting detainees is essential to ensure both the rights of the detainee and the safety of the transporting officer(s), the detainee(s), and the general public. Adherence to proper procedures will also minimize the possibilities of injury, escape, or accusations of mistreatment.

## II. POLICY

It is the policy of this department that:

- A. Arresting officers, in handling and transporting detainees, will use only such force as is reasonable and necessary to control the detainee and to ensure the safety of the officers; and
- B. Arresting and transporting officers shall take all appropriate measures to ensure the preservation of the rights and safety of detainees and to prevent their escape.

## III. PROCEDURE

### C. Transport Vehicles

1. TYPES OF VEHICLES: The following vehicles may be used to transport detainees, listed in order of preference:
  - a. Patrol vehicle caged two-person cruiser;
  - b. Caged one-person cruiser;
  - c. Uncaged vehicle.

NOTE: A vehicle without a barrier shall be used only if there is no patrol wagon or caged cruiser available.

2. SAFETY MODIFICATIONS

- 1) All department vehicles normally used to transport detainees shall have safety barrier to protect the front occupants; [70.4.1]
  - 2) A fiberglass prisoner seat (replaces the rear bench seat); and
  - 3) Rear window security bars.
- d. All vehicles used for transporting detainees shall be modified to minimize opportunities for the detainee to exit from the rear compartment of the vehicle without the aid of a transporting officer. Such modifications may include: [70.4.2]
  - 4) Disable rear passenger power window controls;
  - 5) Remove rear passenger window hand cranks; and
  - 6) Disable or remove rear passenger interior door latch handles.

3. TRANSPORT VEHICLE SEARCHES [70.1.2]

- e. All vehicles normally used for transporting detainees shall be checked for operational suitability, and searched for weapons and contraband at the beginning of each shift.
- f. Before placing a detainee in a police vehicle, the vehicle shall be searched to ensure that there are no articles present that can be used as weapons. This will also ensure that items subsequently found (e.g., contraband, evidence, etc.) can be more easily attributed to the detainee.
- g. At the completion of all detainee transports, the officers assigned to the vehicle will conduct a search of the area within the vehicle where the detainee was located for evidence and/or contraband that may have been discarded by the detainee.

## **D. Detainees**

4. DETAINEE SEARCHES [70.1.1]

- h. All detainees shall be thoroughly searched immediately prior to being transported.
- i. Whenever an officer takes custody of a detainee to transport, the officer should never assume that the detainee has already been searched. The officer shall conduct a thorough search of the detainee himself/herself, provided the officer is of the same sex.
- j. If the detainee is of the opposite sex of the transporting officer:
  - 7) An officer or trained police employee of the same sex may search the detainee.
  - 8) If such officer or employee is not available, an officer of the opposite sex may conduct the search if there is reason to believe the detainee is armed with an item with which [s]he could cause harm to himself/herself or the officer.
  - 9) The officer should conduct this search in the presence of another officer or a reasonable adult witness to minimize any accusation of misconduct.

- k. Juvenile detainees shall be processed in the same manner as adult detainees with regard to searches; however, consideration shall be given to the age and sensitivity of the juvenile detainee.

## 5. DETAINEE RESTRAINING DEVICES [70.2.1]

- l. All detainees shall be handcuffed prior to being placed into the transport vehicle. Officers may use:
  - 10) Metal handcuffs, or
  - 11) "Flex Cuffs."
- m. Detainees shall be handcuffed with their hands behind their back, palms facing outward unless there are exigent circumstances (such as an injury, etc.).
- n. Handcuffs shall be double locked. Handcuffs shall be placed on the skin above the wrists, securely, but not so tightly as to affect circulation. Handcuffs shall not be placed over sleeves or clothing.
- o. At no time will a detainee be handcuffed to any part of the transport vehicle during transport.
- p. Leg restraints may be used in addition to handcuffs when the officer believes the detainee has a potential for violent behavior or flight; leg restraints may be used in lieu of handcuffs due to injury or disability.
- q. Officers shall not transport detainees who are restrained in a prone position.
- r. Officers should be aware of the issue of positional asphyxia when placing restrained detainees into a vehicle.
- s. Officers may transport without handcuffs provided there are extenuating circumstances (e.g., very young juvenile, handicapped, injured).

## 6. MULTIPLE DETAINEES

- t. Whenever several similar suspects (adult males, juvenile males, etc.) who have been arrested as participants in the same criminal activity are to be transported:
  - 12) They should be handcuffed in the standard way.
  - 13) Their arms may be interlocked and their hands handcuffed behind their backs, palms facing outward.
  - 14) The detainees may be cuffed together by handcuffing the right wrist of suspect #1 to the right wrist of suspect #2. The left wrist of suspect #2 would then be handcuffed to the left wrist of suspect #3. If there are four or more suspects, they should be handcuffed in groups of two or three.

## 7. SEATING IN POLICE PATROL VEHICLES

- u. Officers shall ensure that detainees being transported are visually observable at all times.
- v. Detainee Transport with Two Officers, Caged Vehicle
  - 15) The detainee(s) will be seated in the rear seat. Both officers will be seated in the front seat.
  - 16) The officer in the passenger position will maintain visual contact with the detainee(s).
  - 17) Safety belts with a shoulder harness shall be used if available.

- w. Detainee Transport with Single Officer, Caged Vehicle: If the transporting officer cannot be provided with a backup and must transport the detainee alone, [s]he will follow this procedure:
    - 18) Handcuff the detainee with his/her hands behind his/her back, palms facing outward;
    - 19) The detainee will be seated in the right rear seat; and
    - 20) Safety belts with a shoulder harness shall be used if available.
  - x. Detainee Transport in Uncaged Vehicle: When transporting a detainee in an unmarked vehicle or cruiser without a cage: [70.1.3]
    - 21) Only one detainee at a time will be transported;
    - 22) The detainee shall be placed in the front seat, passenger side;
    - 23) If there is a second officer available, [s]he will ride in the front seat with the operator and the detainee will be placed in the rear seat behind the passenger; and
    - 24) Safety belts with a shoulder harness shall be used if available.
- NOTE: This type of transport should only be made in situations where the offense is minor in nature and the detainee is cooperative.

## **E. Transport to Booking Facility**

- 8. GENERALLY: An officer shall not attempt to transport more persons than [s]he can safely control.
- 9. FEMALES AND JUVENILES: Whenever possible, male and female detainees and juvenile detainees will be transported separately from each other.
- 10. ESCORTING DETAINEES TO TRANSPORT VEHICLE: A time of potential danger to the officers and detainee is when the detainee is being escorted to the transporting vehicle. To help reduce the danger, officers should keep the detainee isolated from other persons in the area when going to the transport vehicle and during the transport.
- 11. COMMUNICATING WITH DISPATCH: Immediately upon commencing the transport, the officer shall communicate the following information to the dispatcher:
  - y. The number and sex of arrestees, and whether the arrestee(s) are juveniles;
  - z. The reason for the arrest;
  - aa. The present location and the vehicle's odometer reading; and
  - bb. The destination.
- 12. TRANSPORT ROUTE
  - cc. A detainee in custody shall be transported directly to the station, using an expedient route from the scene of custody to the booking facility.
  - dd. All traffic regulations shall be observed, unless an emergency exists.
- 13. COMMUNICATION WITH DETAINEE DURING TRANSPORT [70.1.5]
  - ee. Because an arrestee in a police vehicle is in custody, no questioning of the arrestee shall be initiated by officers unless and until the arrestee has been fully advised of the Miranda Warnings and has knowingly and intelligently waived those rights.
  - ff. Unless a situation exists that makes a verbal exchange necessary, transporting officers should not allow detainees to communicate with other persons while being transported.

- gg. If a citizen, including the detainee's attorney, requests to speak with a detainee, the officer should advise that person of the destination of the detainee transport.
- hh. If possible an audio recorder should be activated and the arrestee should be notified of such activation.

#### 14. ARRIVAL AT BOOKING FACILITY

- ii. Upon arrival at the booking facility, notify the dispatcher of the time of arrival and the vehicle's odometer reading.
- jj. Booking will be accomplished according to the department policy on **Detainee Processing**.
- kk. All officers will secure any all of there weapons in a temporary gun locker located in either garage bay before taking a prisoner out of a cruiser. No weapons will be aloud either inside the booking are or the holding cell area at anytime.

### F. Transport of Detainee to Another Facility

15. PREPARING DETAINEE FOR TRANSPORTATION: When a detainee is to be transported from the holding facility to another holding facility or to court, the officers involved will comply with the following procedures:

- ll. Detainee Identity: Verify which detainee is to be transported.
- mm. Positively Identify the Detainee Prior to Transport: The transporting officer shall positively identify that the detainee to be transported is, in fact, the correct detainee. Positive identification may be ascertained from another employee, or by checking the identification of the detainee against the description, booking photo, cell number, and booking photo, etc. [70.5.1(a)]
- nn. Destination: Verify the destination of the detainee transport.

16. HEALTH SCREENING: Before transfer to another facility, the detainee shall be screened by the officer preparing the detainee for transport. This screening shall consist a brief inquiry into:

- oo. The current health of the detainee;
- pp. Any medications being taken;
- qq. Behavioral observations, including consciousness and mental status; (also see Suicide Risk Screening in this department's policy on **Detainee Processing**); and
- rr. A notation of any obvious body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.

Note: All observations shall be noted on the intake form.

17. VIOLENT/ESCAPIST DETAINEES: If a detainee to be transported to court or another custody facility has been or is extremely violent or is an escape risk, the officer-in-charge will make this fact known to the receiving agency prior to the detainee's being transported, so that the receiving agency is prepared to accept the detainee. [70.1.6(d)]

18. SUICIDAL DETAINEES: If the detainee is or is felt to be a suicide risk, the receiving agency will be advised in writing of the exact nature of the threat or attempt and the **appropriate CJIS entry will be made in accordance with M.G.L. c. 40, §36A.** [70.5.1(c)]

19. DOCUMENTATION: The transporting officer shall ensure that the proper documentation, as appropriate, accompanies the detainee. [70.5.1(b)] **to Court** [If court paperwork is not transported separately from the detainee]:

- 25) Police report;

- 26) Statement of Facts form;
- 27) Application for complaint or criminal citation;
- 28) Served arrest warrants; and
- 29) Suicide risk evaluation, if appropriate.

ss. Juvenile holding facility:

- 30) Booking sheet;
- 31) Suicide risk evaluation; and
- 32) Mental health evaluation: Application for mental health evaluation if issued.

tt. Other police agency:

- 33) Booking sheet;
- 34) Served arrest warrants; and
- 35) Suicide risk evaluation.

uu. Property:

- 36) Transfer the detainee's property to the custody facility or court, provided that the court will accept the property.
- 37) Any property not accepted by the receiving facility shall be turned over to the property officer to be held for safe keeping.

20. UPON ARRIVAL AT ANOTHER FACILITY: Upon arrival at the custody facility or court, the officers will:

- vv. Advise the dispatcher of their location and the vehicle's odometer reading at the beginning and end of the transport;
- ww. Secure firearms at the accepting facility in accordance with the procedures of the receiving agency; [70.1.6.a]
- xx. Escort the detainee into the facility and deliver all necessary documentation and personal property to the receiving officer; [70.1.6.c]
- yy. Maintain control of the detainee until relieved by the receiving agency;
- zz. Advise the receiving agency personnel of any potential medical issues, disease, suicide risk, infectious disease, open wounds, sores, vermin or security risks; [70.1.6(d)]
- aaa. Remove restraining devices only if directed to do so by the receiving agency; and [70.1.6(b)]
- bbb. Obtain the name and signature of the receiving agency official if possible. [70.1.6(e)]

21. TRANSPORT OF DETAINEE FROM ANOTHER AGENCY'S CUSTODY: When transporting a detainee from another facility to the department's holding facility (e.g., picking up a detainee arrested on a warrant by another agency), the transporting employees will:

- ccc. Upon arrival at the holding agency, notify the dispatcher;
- ddd. Secure their firearms in accordance with the procedures of that agency;
- eee. Verify the identity of the detainee by checking any description of the detainee contained on the warrant or other documents;
- fff. Ensure that all required paper work is properly signed and executed and accompanies the detainee;

- ggg. Obtain the detainee's property;
- hhh. Prepare the detainee for transport according to department procedure:
  - 38) Search,
  - 39) Restraints,
  - 40) Seating in the transport vehicle;
- iii. Notify the dispatcher when they are beginning their return transport, and give the vehicle's odometer reading at the beginning and end of the transport; and
- jjj. Transport the detainee directly to the department's holding facility.

## **G. Special Transport Situations**

### **22. TRANSPORTING DETAINEES OF THE OPPOSITE SEX**

- kkk. When transporting a detainee of one sex by an officer of the opposite sex, an additional officer may be requested to accompany the transport whenever practical.
- III. Whenever one or two officers transport a detainee of the opposite sex, the following procedures will apply:
  - 41) The transporting officers will call in the mileage on their patrol vehicle and their location. The dispatcher will make an entry into the log.
  - 42) The transporting officers will proceed directly to their destination using the shortest practical route.
  - 43) Upon arrival at the destination of the transport, the transporting officers will call in the ending mileage on their patrol vehicle. This information will be noted by the dispatcher in the log.

### **23. SICK, INJURED, OR HANDICAPPED DETAINEES [70.3.1]**

- mmm. If medical care is necessary:
  - 44) The officers shall arrange for Emergency Medical Technicians to come to the scene and evaluate the detainee's medical needs.
  - 45) The detainee will either be transported by ambulance to a hospital or be treated and released to the officers' custody.
- nnn. If hospital care is necessary:
  - 46) An officer may, at the discretion of a supervisor, or at the request of medical personnel, accompany the detainee in the ambulance.
  - 47) If an officer does not ride in the ambulance, the officer shall follow the ambulance to the hospital.
  - 48) Handcuffing of Sick, Injured, or Handicapped Detainees
    - a) When handcuffs are used, they should be used in a manner so as not to further aggravate the handicap or injury. If Emergency Medical Technicians are present, handcuffs should be applied as suggested by them.
    - b) Leg shackles may be used when handcuffs are not appropriate.
  - 49) Upon arrival at the hospital, the officer shall meet the ambulance and accompany the detainee through triage.

50) The detainee shall remain in custody and in the presence of the officer (unless emergency circumstances prevent it) until his/her release from the treating facility and/or release from custody (such as bail).

ooo. For further information, see the department policy on **Detaining Prisoners**.

## 24. TRANSPORTING HANDICAPPED DETAINEES

ppp. Officers will make reasonable accommodations when transporting handicapped detainees.

qqq. When it is necessary to lift a wheelchair or bed-ridden detainee, two or more persons shall be used.

rrr. A non-emergency ambulance may be used if appropriate.

sss. Any wheelchairs, crutches, prosthetic devices, and medication should be transported with, but not in the possession of, the detainee.

25. TRANSPORTING MENTALLY DISTURBED DETAINEES: Mentally disturbed detainees may pose a significant threat to themselves and/or the transporting officers. If required, handcuffs should be used until a more appropriate restraining device can be applied.

## 26. LONG-DISTANCE TRANSPORTATION

ttt. Two officers shall be used in any long-distance transport of a detainee of over **100** miles. There should be at least one officer or police employee of the same sex as the detainee being transported.

uuu. The use of optional restraints should be considered, such as:

51) Waist chains, or

52) Leg shackles.

vvv. Visual Contact: Transporting employees should maintain visual contact with the detainee at all times.

www. Use of Toilet Facilities: The officers shall contact the nearest available police department to make arrangements for the use of their facilities.

xxx. Food: If transporting officers must provide food for detainees during transport:

53) Fast food may be provided and consumed in the transportation vehicle.

54) The officer may contact a police facility to make arrangements for the detainee to be placed in a cell and fed.

## 27. INTERRUPTION OF TRANSPORT [70.1.4]

yyy. The primary duty of the transporting officers is the safe delivery of detainees in their care to the proper destination.

zzz. While transporting a detainee, the transporting officers will stop to provide police services only in the following circumstances and only if this activity can be accomplished without serious risk of injury to the detainee or escape of the detainee:

55) Where immediate response is required to prevent severe bodily injury or death to an individual;

56) Where serious injury has occurred requiring immediate attention; and

57) Where a serious or violent crime is in progress and/or a criminal is fleeing and immediate apprehension is required to ensure public safety.

## 28. SPECIAL SITUATIONS



aaaa. Officers shall not transport detainees to visit critically ill persons, to attend funerals or other such special situations.

bbbb. Where circumstances warrant, an officer should explain bail procedures to a detainee or his/her family and assist in having the detainee's request for bail addressed promptly. [70.3.3]

## **H. Detainee Escape**

### **29. TRANSPORTING OFFICERS**

cccc. If a detainee escapes during arrest, transportation, or booking, the officers will notify the dispatcher giving as much information as possible, including the following: [70.1.7(c)]

58) Detainee's name, if known;

59) Description, including clothing;

60) Area where escape occurred;

61) Direction of flight;

62) Probable destination, if known; and

63) Any other pertinent information available.

dddd. Begin an area search and attempt to regain custody of the detainee.

eeee. The officer from whose custody the detainee escaped shall submit a written report, before the end of the shift, detailing the events leading to the escape to the supervisor. [70.1.7(b)]

### **30. DISPATCHER [70.1.7(A)]**

ffff. The dispatcher will immediately notify the officer-in-charge of the detainee escape, and [s]he will deploy additional officers as necessary.

gggg. The dispatcher shall call additional resources at the request of the supervisor:

64) Canine Teams;

65) State Police Air Wing; and

66) Other law enforcement agencies.

31. OFFICER-IN-CHARGE: The officer-in-charge will submit a written report concerning the events leading to the escape, the actions taken to regain custody, and any recommendation concerning possible corrective measures or department disciplinary proceedings. [70.1.7(b)]

32. DEPARTMENT COMMAND STAFF: Review reports and take actions to prevent any recurrence.

# HOLDING FACILITY

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.02</b>  MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>72.1.1; 72.1.2; 72.2.1; 72.3.1; 72.3.2; 72.4.3; 72.4.4; 72.4.6; 72.4.7; 72.4.8; 72.4.9; 72.4.11; 72.5.3; 72.6.2; 72.6.4</b>	ISSUE DATE: _____
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## I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy addresses the operation of the police lockup facility.

The authority to operate a lockup facility by a municipality is rooted in Massachusetts General Law: "Each community containing more than five thousand inhabitants shall, and any town may, maintain a lockup facility." A keeper of the lockup must be appointed.

"Cities with a population over thirty thousand shall, and any other city may, designate one or more police stations for the detention of females and one or two matrons shall be appointed to each designated station."

The proper operation of the police lockup is critically important to the safety of police personnel and the well-being of prisoners or detainees. A special relationship exists between a police department and a person occupying a cell in its holding facility.

By statute, the obligation to maintain a lockup includes the provision of any prescribed medication and nutritionally adequate meals. In addition, detailed statutory requirements exist concerning suicide prevention. Department of Public Health regulations at 105 CMR 470 provide detailed requirements for the maintenance and construction of lockup facilities.

## II. POLICY

It is the policy of this department to:

- A. Operate a safe and sanitary lockup facility in compliance with state and local codes and regulations;
- B. Care for detainees, being attentive to their security and medical needs; and
- C. Provide special care for juveniles, separate from adults and only in approved facilities.

### III. DEFINITIONS

- D. *Cell*: Any room within a lockup used or intended to be used by a police officer for forced detention of an adult for longer than eight hours until such time as [s]he is released, bailed, or arraigned. Cell shall also mean a juvenile detention room.
- E. *Cell Block*: The area(s) within the lockup facility designed for the custody of male, female or juvenile detainees.
- F. *Holding Facility: Lockup*: those facilities, or parts of facilities, within police station houses that are used for forced detention of individuals. The lock-up area includes holding cells and common hallways to which the cells open.

### IV. PROCEDURES

#### G. Management and Administration

- 1. **HOLDING FACILITY MANAGER**: The Chief of Police shall designate an officer to be responsible for the management and administration of the Lock-Up and Holding Facility. The Holding Facility Manager shall be responsible for:
  - a. Periodic inspection of the facility to ensure compliance with this policy, applicable laws, and Codes of Massachusetts Regulations;
  - b. Complying with changes to law or regulation regarding the operation of the holding facility;
  - c. Reviewing and publishing the evacuation plan;
  - d. Coordinating corrections to any deficiencies; and
  - e. Reporting to the Chief of Police any deficiencies to the facility or security issues that the Holding Facility Manager does not have the authority or resources to address.
- 2. **HOLDING FACILITY RENOVATIONS**: No lockup shall be built or renovated until the Department of Public Health has approved, in writing, the plan of lighting, heating, ventilation and plumbing; the dimensions and form of construction; and the location of the cells.

#### H. Training [72.1.1]

##### 3. INITIAL TRAINING

- f. Initial training, as indicated below, shall be provided when new employees are hired, consistent with each employee's duties and responsibilities.
- g. **Suicide prevention**: Any employee assigned to the position of desk officer, sworn officers and all matrons, whether full-time or part-time, shall be trained in accordance with the Municipal Police Training Committee guidelines for preventing suicide of detainees in the lockup.
- h. **Training**
  - 1) Sworn police employees shall be trained in:
    - a) Holding facility operations, including policies, rules and procedures relative to the holding facility;
    - b) Application of physical restraints;
    - c) Search of detainees;
    - d) Emergency and fire suppression equipment and procedures;
    - e) Holding facility equipment:
      - i. Cell check recorder;

- ii. Cell Cameras;
  - iii. Cell Audio; and
- f) Suicide prevention.
- 2) Communications Personnel shall be trained in:
  - g) Holding facility operations, including policies, rules and procedures relative to the holding facility;
  - h) Emergency and fire suppression equipment and procedures;
  - i) Holding facility equipment:
    - iv. Cell check recorder;
    - v. Cell Cameras;
    - vi. Cell Audio; and
  - j) Suicide prevention.
- 3) All employees charged with physical supervision of detainees (clerks or dispatchers who participate in matron duties, matrons, etc.) shall be trained in:
  - k) Holding facility operations, including policies, rules and procedures relative to the holding facility;
  - l) Application of physical restraints;
  - m) Search of detainees;
  - n) Emergency and fire suppression equipment and procedures;
  - o) Holding facility equipment:
    - vii. Cell check recorder;
    - viii. Cell Cameras;
    - ix. Cell Audio; and
  - p) Suicide prevention.

#### **4. IN-SERVICE TRAINING**

- i. Employees shall be re-trained at least once every three (3) years, as applicable to their duties in the lockup, in the following areas:
  - 4) Holding facility operations including policies, rules and procedures relative to the holding facility;
  - 5) Application of physical restraints;
  - 6) Search of detainees;
  - 7) Emergency and fire suppression equipment and procedures;
  - 8) Holding facility equipment:
    - q) Cell check recorder;
    - r) Cell Cameras;
    - s) Cell Audio; and
  - 9) Suicide prevention.
- j. Completion of a refresher seminar in suicide prevention shall be a condition of promotion for all police officers.

5. DOCUMENTATION: Training documentation shall be filed in the employees' personnel and training folders.

## **I. Access to Cell Block [72.1.2]**

6. LIMITATION TO ACCESS: Nonessential persons, including department employees, shall not be allowed unescorted access to the cell block at any time without the permission of the officer-in-charge. This includes maintenance personnel, the press and tour groups. See department policy on ***Detaining Prisoners***.
7. **SANITATION AND MAINTENANCE EMPLOYEES**
- k. Sanitation and maintenance employees shall not enter the detainee holding area unescorted when a detainee occupies any holding cell.
- l. No maintenance or cleaning shall be conducted in any occupied cell.
8. VISITORS: Due to the short term that detainees are held in custody, visitors are discouraged. Visits of detainees may be made at the discretion of a supervisor, so long as they do not interfere with the operation of the department. For further information, see the department policy on ***Detaining Prisoners***.

## **J. Lockup Facility [72.2.1]**

9. HOLDING FACILITY CONDITIONS: The holding facility shall provide the following minimum conditions for detainees:
- m. Adequate lighting;
- n. Circulation of fresh or purified air;
- o. Access to drinking water;
- p. Access to a flushing toilet;
- q. Access to a wash basin or shower for detainees held in excess of eight hours;
- r. Hot water within a range of 110 to 130 degrees Fahrenheit; and
- s. A bed and access to sufficient blankets to maintain warmth for each detainee held in excess of eight hours.

## **10. AUDIO AND VIDEO MONITORING**

**[Edit as appropriate]**

- t. Holding cells **[and the holding facility]** shall be equipped with video **[and audio]** surveillance which is viewable in the Communications Center. For further information on monitoring, see the department policy on the ***Communications Center***.
- u. Cell **[audio and]** video is captured on a digital video recorder and is preserved until it is overwritten by the recorder.
- v. Cells in which audio is captured shall be conspicuously marked on a cell wall with the following warning, "YOU ARE BEING AUDIO AND VIDEO RECORDED."

## **11. FIRST AID KIT [72.6.2]**

- w. A first aid kit shall be maintained in a prominent location within the holding facility and shall contain material necessary for light emergency medical treatment.
- x. The kit shall be inspected as part of the weekly inspection and restocked as necessary by the person conducting such inspection.

## **12. FIRE PREVENTION/DETECTION/SUPPRESSION [72.3.1]**

- y. Fire Detection: The lockup shall be equipped with functional automatic smoke detectors in compliance with 780 CMR Chapter 9, Fire Protection Systems, Massachusetts Building Code.

- z. Fire Suppression: **[IF REQUIRED FOR YOUR AGENCY]** The lockup shall be equipped with a functional fire suppression system in compliance with 780 CMR Chapter 9, Fire Protection Systems, Massachusetts Building Code.

aa. Fire Prevention Practices

10) Detainees shall not have smoking materials, lighters, matches or other sources of flame while in the lockup.

11) Detainee bedding and blankets shall be fire or fire-resistant construction.

12) The lockup shall be equipped with functional fire suppression equipment.

**13) [IDENTIFY EQUIPMENT AND LOCATION.]**

**14) [IDENTIFY OTHER FIRE PREVENTION PRACTICES.]**

**13. INSPECTIONS [72.4.6]**

bb. Any employee who places a detainee in a holding cell shall visually inspect the cell for weapons, contraband, and any security deficiencies.

cc. Deficient cells shall be taken out of service until the deficiency is corrected. Security deficiencies include:

15) Inoperative lighting;

16) Inoperative locks;

17) Inoperative video; and

18) Broken windows or handcuffing ports.

dd. The Holding Facility Manager shall be responsible for ensuring periodic inspections of the holding facility:

ee. Weekly Inspection: The weekly security inspection of the lockup shall be conducted by **the Chief of Police designee**. The inspection and findings shall be annotated on the department's Weekly Lockup Inspection form.

ff. Semi-Annual Inspection: The Lockup Facility Manager shall conduct a facility inspection of the lockup periodically. The inspections shall be annotated on the department's Semi-Annual Lockup Facility Inspection form.

gg. Periodic inspections are done by the Department of Public Health.

19) Such inspections are mandated to be done at least once per year.

20) Noted deficiencies are reported to the Chief of Police.

21) The Holding Facility Manager shall:

t) Coordinate corrections to any noted deficiencies;

u) Report to the Chief any deficiencies that are not within the manager's authority to correct; and

v) Forward a plan of action to the Department of Public Health within twenty-one (21) days of the receipt of the notice of non-compliance.

hh. Fire Protection System

22) Smoke detector/alarm system shall be inspected/tested **[IDENTIFY FREQUENCY OF TESTING]**. [72.3.1]

23) Fire suppression equipment shall be inspected/tested **[IDENTIFY FREQUENCY OF TESTING]**. [72.3.1]

24) All inspection documents shall be filed **[IDENTIFY]**.

**K. Security**

#### 14. KEYS [72.4.3]

- ii. See the department policy on **Uniforms and Equipment** for more information on the issue and control of manual and electronic keys.
- jj. Employees who are issued keys or electronic access cards or key fobs to the holding facility may use them for authorized access purposes only. Such keys may be issued to:
  - w) Sworn officers;
  - x) Dispatchers; and
  - y) Maintenance and cleaning personnel.
- kk. Holding Cell Keys:
  - 25) Individual employees shall not be issued keys to holding cells.
  - 26) Holding cell keys shall be stored **in the booking room** while not being used.
  - 27) Spare holding cell key(s) are located in **Dispatch**

#### 15. DOORS: [72.4.4]

- ll. All unoccupied cell doors shall be left unlocked and open so as to facilitate the confining of a detainee after booking.
- mm. The outer door(s) into the holding facility shall be kept locked at all times.
- nn. Other doors, such as utility closets and access panels, should be kept locked**

#### 16. SUPPLIES AND EQUIPMENT [72.4.7]

- oo. Supplies and equipment not specifically needed to operate the holding facility may not be kept or stored in the holding facility.
- pp. No tools are allowed in the cell block area, except with the specific authorization of the officer-in-charge.
  - 28) All tools and equipment used for cleaning and maintenance shall be removed from the cell block when not under the direct control of cleaning or maintenance personnel.
  - 29) After sanitation or maintenance personnel have left the cell area, the officer-in-charge will ensure that the cell block is inspected for tools or other items that may have been left behind. [72.4.7]
- qq. Detainees shall not have access to metal eating utensils.
  - 30) All eating utensils, if any, shall be of flexible, disposable plastic.
  - 31) All eating utensils, if any, shall be discarded immediately following the finishing of a meal.

#### 17. THREATS [72.4.11]

- rr. Any threat, indicated or perceived, against the structure of the police facility or departmental personnel, which an officer considers to be serious in intent, shall be reported immediately to the officer-in-charge.
- ss. Upon being notified of the threat, the officer-in-charge shall take whatever action [s]he deems necessary to negate the effect or consequences of the threat and shall file a written report of the incident to the Chief of Police.
- tt. ALERTING CONTROL POINT: The holding area shall be equipped with a system so that a detainee may alert the dispatcher in the event of an emergency. [72.4.8] **which is audio and video**

#### 18. OBTAINING MEDICAL ATTENTION: Procedures for gaining access to medical services shall be posted in the holding facility in English **[IDENTIFY ANY OTHER LANGUAGES THAT THE INSTRUCTIONS ARE POSTED IN.]** [72.6.4]

19. PANIC ALARMS [72.4.9]: **Options (select one)** Officers in the holding facility shall be equipped with an “alert” or “panic alarm” system or a means of two-way communications. **Or** The holding facility shall have a security alarm system for officers/employees, linked to the dispatch area or other central control point.

## **L. Emergency Evacuation of Holding Facility [72.3.2]**

**[The evacuation plan must be posted in the lockup. This portion of the policy should be edited to meet your agency’s procedure. Evacuation destination points must be included in the plan and destination lockups should be identified as well.]**

20. The lockup shall have a written evacuation plan which specifies the route of evacuation to a hazard-free area, and subsequent disposition and housing of detainees.
21. An evacuation route shall be posted in the holding facility, and evacuation route signs or emergency exit signs shall also be posted.
22. In the event of a fire or other emergency that requires the lockup to be evacuated:
- uu. Upon discover of such a condition, the reporting party shall immediately notify Communication.
  - vv. The dispatcher shall:
    - 32) Request a fire response if appropriate;
    - 33) Notify the shift supervisor; and
    - 34) Notify all police patrols.
  - ww. Police personnel shall immediately begin an evacuation of the lockup to a hazard-free area. The primary goal shall be the preservation of life.
    - 35) Detainees shall be escorted to the evacuation destination points whenever possible.
    - 36) When staffing does not permit detainees to be escorted, they shall be directed to the evacuation destination and may proceed on their own, unescorted.
    - 37) High security detainees, high risk detainees, and detainees who are believed to have started the fire shall be handcuffed and escorted, if possible.
    - 38) When all detainees have been removed from the holding area, the officer in charge of the evacuation shall account for the detainees.
    - 39) Detainees may be disbursed or relocated by the following options:
      - z) Make arrangements with other holding facilities to hold the detainees.
      - aa) Bail all bailable detainees. This may necessitate the police department’s paying the bail commissioner’s fee. The police department will not, however, post bail.
      - bb) Relocate detainees to an unaffected area of the police facility.
    - 40) Warrants will be sought for detainees who are unaccounted for.

## **M. Separation of Detainees [72.5.3]**

### **23. JUVENILES**

- xx. Lockup and other detention facilities shall be such as to prevent juveniles who are detained from coming in contact with adult detainees.
- yy. Juveniles shall be separated by sight and sound from adult detainees.
- zz. The facility must be approved in writing by the Commissioner of Youth Services. See department policy on **Handling Juveniles**.

### **24. FEMALES**



aaa. Female detainees shall be separated by sight and sound from male detainees.

bbb. A Matron shall be called whenever a female prisoner is to be searched **[and placed in the holding facility.]**

**[Note: In any city required under M.G.L. c. 147, §18 to designate a station for the detention of females and appoint matrons, a matron shall remain constantly at the station so long as any female is detained and shall have the entire care and charge of all females.]**

# DETAINEE PROCESSING

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.03</b>	ISSUE DATE: _____
	EFFECTIVE DATE: _____
	REVISION DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>1.2.5(b)(c); 1.2.8; 72.1.3; 72.4.1; 72.4.5; 72.5.1; 72.5.2; 72.5.5; 72.5.6; 72.6.3; 72.7.1; 82.3.6</b>	

## I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy addresses processing of detainees from their arrival at the police station to transfer or release. The actual detainment is addressed in the policy on ***Detaining Prisoners***.

During this stage the detainee is searched, advised of rights, photographed, and fingerprinted, and the custody is documented. In addition, the presence or lack of injuries is documented, true identity may be validated, and the appropriateness and timing of their release is determined. For those charged with a crime, a criminal history file is created for each arrest.

Processing of detainees is a critical step in the custody process. It is during this stage that officers processing the detainee must take steps to ensure that the rights of the detainee are advised and honored. An omission of this responsibility may result in damage to the ability to prosecute the case, complaints against employees, or civil liability against employees, supervisors and the municipality.

## II. POLICY

It is the policy of this department to protect the constitutional rights of detainees during booking while protecting the safety of department employees and detainees.

## III. DEFINITIONS

- A. ***Strip Search***: An inspection of a naked individual, or the movement or removal of clothing to expose for inspection the buttocks, pubic area, or female breast area, without any scrutiny of the body cavities.
- B. ***Visual Body Cavity Search***: A visual inspection of the anal and genital areas.
- C. ***Body Cavity Search***: A search involving an internal physical examination of body cavities including the anal and genital areas.

## IV. PROCEDURES

### D. Arrival at Station

## 1. NOTIFICATIONS

- a. When officers transporting a detainee arrive at the police facility, transporting officers shall:
  - 1) Request that the sally-port door be opened.
  - 2) Notify the dispatcher, using the police radio, of their arrival and the odometer reading of their vehicle.
- b. Once inside, the sally-port door will be closed.

## 2. POLICE FIREARMS [72.4.1]

- c. The transporting officers shall remove and secure their firearms prior to handling detainees. **Firearms will be secured in temporary lockers located in the sally port or the main hallway outside of the booking room.**
- d. All persons, including but not limited to assisting officers, booking officers, detectives, and supervisors shall secure their firearms prior to entering the booking area.
- e. No firearms are allowed in the booking room or holding facility during the processing or detention of detainees.

## 3. DOORS: All doors to the booking area will be secured during the entire booking process.

## 4. BOOKING ROOM ACCESS: Only authorized personnel are allowed in the booking area during processing.

## 5. VIOLENT OR UNCONTROLLABLE DETAINEES

- f. Detainees who are violent, intoxicated, or uncontrollable may be placed directly into a holding cell until such time as they are calm enough to process.
- g. Officers shall not remove restraints if the behavior of the detainee poses an excessive risk of injury to officers or the detainee.

## E. Examination by Officer in Charge: Upon the arrival of a person in custody, the shift supervisor shall:

- 6. Examine the detainee for injuries and note any medical complaints.
- 7. If any injuries do exist, inquire as to whether these injuries were sustained during or prior to the arrest.
- 8. Instruct the Booking Officer to make a notation of the injuries on the intake form.
- 9. Report to the Chief of Police, in writing, any cuts, bruises or injuries found.
- 10. If a detainee complains of any medical problems, the shift supervisor should follow the department's procedure on ***Detaining Prisoners***.

## F. Booking

## 11. STAFFING: At least two officers, if available, will conduct detainee booking whenever possible.

## 12. DETAINEE SEARCH FOR WEAPONS

- h. Prior to the removal of handcuffs, a full and thorough search shall be conducted of the detainee's person for weapons.
- i. An officer of the same sex as the detainee shall conduct the search whenever possible.
  - 3) A trained department employee or an officer from another police agency of the same sex as the detainee may conduct the search, if necessary.
  - 4) If no officer or trained employee of the same sex is available, a search for weapons may be conducted by an officer of the opposite sex.

- a) Depending upon the circumstances, a search may be able to be conducted without actually touching the detainee.
  - i. Some portion of clothing may be such that the outline of a weapon may be obvious.
  - ii. Pockets may be turned inside out.
  - iii. The waist band may be exposed and rolled outward to expose the body side.
  - iv. A hand-held metal scanner may detect the presence of metal items.
  - v. A pat down of the outer clothing may be conducted by an officer of the opposite sex by using the back portion of the hand to search for hard objects or weapons.
- b) At no time will the safety of employees, other detainees or the detainee be placed in jeopardy by a detainee suspected of concealing a weapon.
  - vi. The detainee may continue to be restrained until an officer of the detainee's same sex can be located to conduct a search.
  - vii. Detainees of the opposite sex may conduct the search, if necessary. Such search must be witnessed by another employee and conducted in view of booking video cameras, if possible.

### 13. HANDCUFFS

- j. The transportation handcuffs shall remain on detainees until the booking officer instructs that they be removed.
- k. Detainees shall generally shall be placed in the temporary holding cage upon arrival and throughout the booking process.
  - 5) For the purpose of conducting a booking inventory;
  - 6) For the purpose of fingerprinting; or
  - 7) At the discretion of the booking officer.
- l. In making the decision to remove handcuffs from a detainee, the booking officer should consider the conduct of the arrestee, the offense for which the arrest has been made, and the recommendations of the arresting and/or transporting officers.

### 14. BOOKING INVENTORY

**[A sample booking procedure follows. Edit to meet your agency's procedure.]**

- m. An inventory of the detainee's property shall be conducted. [72.5.1(a)]
  - 8) When the handcuffs are removed, the detainee shall be directed to remove all articles or items of personal property that [s]he is carrying on his/her person. This will include:
    - c) All items in all pockets;
    - d) Items secreted on the detainee's person;
    - e) Belts; and
    - f) Jewelry. Note: In the event a piece of jewelry cannot be removed without damaging it, the jewelry may remain with the detainee.
  - 9) If the detainee is expected to be placed in a holding cell or taken directly to court after booking, the following items shall also be removed and placed with the detainee's property:
    - g) Shoe laces;
    - h) Draw strings; and
    - i) Other similar items.

- 10) After the arrestee claims to have removed all personal effects from his/her person, [s]he will be subject to a full search of his/her person by an officer of the same sex. If such an officer is not available:
- j) A trained department employee or an officer from another police agency, of the same sex as the detainee, may conduct the search, if necessary.
  - k) If no officer or trained employee of the same sex is available, as a last resort a search may be conducted by having the person:
    - viii. Turn pockets inside out, if possible.
    - ix. Lift the shirt off of the waist band and roll the waist band.
    - x. Expose the interior of cuffs.
- 11) The following items should be searched as part of the inventory:
- l) All outer clothing worn by the arrestee;
  - m) Wallets;
  - n) Purses; and
  - o) Packs, bags, or other containers brought in as personal property.
  - p) Cell phone cases or other containers in which a cell phone is stored.
- 12) Any container or article found on the detainee's person or carried by the detainee shall be opened and its contents inventoried.
- 13) Papers, documents or other writings found on the detainee's person may be examined only to the extent necessary to check the person's identity, ensure his/her physical safety, ensure the removal of items dangerous to cell administration, and protect the department from charges of theft. Any search of a detainee's papers or other possessions for investigative purposes may be conducted only upon obtaining either the arrestee's consent, preferably in writing, or a search warrant.
- 14) The officer conducting the inventory shall list the inventoried items under the detainee property section of the booking program. The items should be exposed to the view of the booking video camera if possible. [72.5.2(b)]
- 15) The property form should be signed by the arrestee. If the arrestee refuses to sign the report, the booking officer should insert "REFUSED" on the signature line.

n. STORAGE

- 16) All items removed from the detainee shall be marked with the detainee's identification and placed in the detainee property locker. [72.5.1(c)]
- 17) Large, bulky items which do not fit into the detainee's property locker shall be placed in a large plastic container, and tagged with the detainee's identification. The container shall be placed in proximity of the detainee property storage area in view of the security camera.

o. RETURN OF PROPERTY [72.5.1(d)]

- 18) Items removed from the detainee which are not taken as evidence shall be:
- q) Returned to the detainee upon release from the facility; or
  - r) Transported to court or to the receiving agency and turned over to the custody of the receiving officials.

Note: Bulky items which will not be accepted by the court shall be turned over to the property officer for safe keeping.

- 19) The inventory of property shall be viewed with and signed by the arrestee and witnessed. If the arrestee refuses to sign the inventory form, the booking officer should insert "REFUSED" on the signature line.

## 15. STRIP SEARCH/VISUAL BODY CAVITY SEARCHES

- p. A strip search or visual body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons on his/her body.
- q. All strip searches and visual body cavity searches must be approved by the officer-in-charge. [1.2.8(a)]
- r. Strip searches shall be conducted in a professional manner so as not to humiliate the detainee.
- s. All strip searches and visual body cavity searches shall be conducted by an officer/employee of the same sex as the detainee and out of the public view. Only the individual(s) conducting or witnessing the search should be able to see the person being searched. For safety purposes, additional employees may also witness the search in the event that it appears that the detainee may become violent.
- t. A private room shall be used when available. Video cameras and recorders, if active in the search area, shall be set so as not to display or record the search. Audio recordings are authorized. [1.2.8(b)]
- u. The officer/employee conducting the strip/visual body cavity search shall not touch or prod any body part.
- v. A suspect need not be completely naked to conduct a strip search. The removal of clothing and search of the upper body may be followed by the suspect's replacing the clothing, and the process then followed for the lower body.
- w. A report shall be made of all incidents where a strip search is conducted, identifying: [1.2.8(c)]
  - 20) The probable cause for the search;
  - 21) The supervisor giving authority for the search;
  - 22) The officer conducting the search and assisting officers;
  - 23) The location where the search was conducted; and
  - 24) The results of the search.

## 16. MANUAL BODY CAVITY SEARCHES

- x. A body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons in his/her body.
- y. Body cavity searches shall not be conducted without the express approval of the officer-in-charge and a search warrant signed by a judge (not a Magistrate or Assistant Clerk Magistrate). [1.2.8(a)]
- z. Manual body cavity searches shall be conducted by medical personnel, in a private and hygienic setting, and in a medically approved manner. [1.2.8(b)]
- aa. A report shall be made of all incidents where a body cavity search is conducted identifying: [1.2.8(c)]
  - 25) The probable cause for the search: this may be accomplished by referencing the search warrant;
  - 26) The supervisor giving authority to request the search warrant;
  - 27) The names of medical staff conducting the search;
  - 28) The location where the search was conducted; and
  - 29) The results of the search.

## 17. DETAINEE RIGHTS

- bb. During the booking process, the booking officer shall:

- 30) Inform the detainee of his/her rights pursuant to Miranda by reading the Miranda Warning from a printed card or form.
- 31) Inform the detainee again of his/her right to the use of the telephone. [S]he shall be allowed to exercise his/her right in order to contact family or friends, to arrange for bail, or to contact an attorney at the completion of the booking process.
- cc. The detainee shall be advised of his/her right to use the telephone and afforded the use of a telephone within one hour of being brought into the police station in custody.
- dd. Toll calls will be made at the detainee's expense.
- ee. Officers shall allow calls of a type, number and duration that are reasonable and practical, including access to an attorney. [72.7.1(c)]
- ff. If a detainee is provided a monitored or recorded telephone, [s]he shall be informed of the monitoring (unless by court order), and a sign shall be posted in English and other language(s) prevalent in the community unless an audible signal is given on the telephone after detainees are told they are recorded or monitored. [72.7.1(e)]
- gg. When arrested on a warrant, the arrestee shall, upon request, be provided with a printed copy of the warrant contained in the warrant management system within six hours of the request.
- hh. OUI Arrest Rights: Any person arrested and held in custody for operating a motor vehicle while under the influence of intoxicating liquor shall be afforded all applicable rights and processed in accordance with department policy. (See department policy on **Impaired Drivers**)

## 18. CJIS CHECKS

- ii. A computer "wanted" check shall be run on all persons arrested or held in protective custody. The printed query sheet produced will be attached to the intake form.
- jj. A Board of Probation check shall be run on all persons arrested by this department. The hard copy produced will be attached to the intake form.
- kk. A suicide check (Q5) query shall be run on every person to be detained in the department's holding facility, and the hard copy produced shall be attached to the intake form.

## 19. IDENTIFICATION: Any detainee who is unknown to the personnel on duty at the station should be positively identified. Identification may be determined through:

- ll. A government photo identification;
- mm. An investigative identification (name check, booking or RMV photo, etc.); or
- nn. Fingerprint-based criminal history.

## 20. BOOKING [72.5.2(A)]

- oo. All persons taken into custody under arrest or in protective custody by members of this department shall be booked using the department booking software.
- pp. The booking process creates a criminal history and custodial history of each person arrested. An RMS number for internal records and offense base tracking number (OBTN) are created for each arrest. [82.3.6]
- qq. The booking program gathers the following information:
  - 32) Biographical data on the arrestee, including name, address, social security number, telephone number, date and place of birth, age, marital status, and names of parents and spouse. Any refusal to answer any of these questions shall be noted on the form.
  - 33) Information about the crime, including the offense(s) with which the individual is charged and the arresting officer's name(s).

34) Physical description of the arrestee, including sex, race, height, weight, color of hair and eyes, complexion, build, scars, marks, tattoos, and physical condition, e.g., body deformities, trauma markings, bruises, lesions, and ease of movement.

35) Property inventory and disposition. [72.5.2]

36) CJIS query results.

rr. All bookings shall be printed and the records shall be kept in **the arrest file cabinet**, a secure area with access limited to authorized persons. These forms shall serve as the permanent arrest/detention record of the individual arrested/detained. [72.1.3]

## 21. FINGERPRINTING

ss. All persons arrested by this department shall be fingerprinted each and every time that they are arrested, using live scan fingerprinting. The fingerprints shall be downloaded to the state to create or be added to the detainee's fingerprint-based criminal history. [1.2.5(b)]

tt. Fingerprints should not be submitted until all charges have been listed in the fingerprinting program.

uu. In the event that the live scan fingerprinting equipment is not available or functioning, the arrestee shall be fingerprinted using ink, and the fingerprint card shall be forwarded to the State Police Identification Section for entry into I.A.F.I.S.

vv. The booking officer shall check the message log on the live scan system for fingerprint-based criminal history responses.

22. PHOTOGRAPHING: All persons arrested by this department shall be photographed each and every time they are arrested in accordance with current department policy and procedures. [1.2.5(c)]

## 23. SUICIDE RISK EVALUATIONS

ww. All detainees shall be screened for suicidal tendencies using the suicide evaluation screening **program**. This may help to establish the detainee's suicide risk.

xx. A detainee shall be placed on suicide watch if:

37) The risk screening indicates a suicide risk;

38) The detainee exhibits signs or symptoms of suicidal behavior;

39) The detainee threatens to commit suicide;

40) The detainee attempts to commit suicide;

41) The detainee's name appears on the Q5, Suicide Risk File; or

42) The detainee is brought to a hospital for a mental health evaluation, released, and returned to the police holding facility.

yy. The officer-in-charge shall consider the detainee's charges, mental state, behavior and other factors and determine if the detainee should be transported to the hospital for a mental health evaluation (Section 12). See the department policy on ***Handling the Mentally Ill***.

zz. For further information, see the department policy on ***Detaining Prisoners***.

## G. Holding Cells

24. REMOVAL TO CELL: Prior to placing a detainee in a cell within the holding facility, the booking officer shall conduct a security search of the cell, including a search for weapons and contraband. [72.4.5]

aaa. If any weapons or contraband are found, the detainee should be placed in another cell and the supervisor notified.



- bbb. The officer finding the item shall submit a report regarding the item found.
  - ccc. The supervisor shall place the item into evidence and conduct an investigation into the matter.
25. PLACING IN CELL: Whenever an officer closes a cell door to incarcerate a detainee, [s]he shall test the door to be sure it is securely locked. Any problems in securing a cell door shall be reported to the officer-in-charge, who may take the cell out of service and report the problem to the holding facility manager.

## H. Medical Screening and Treatment Procedures

26. INTAKE SCREENING: The prisoner shall, upon arrival at the station and before transfer to another facility, be received and screened by the booking officer. This screening shall consist a brief inquiry into:
- ddd. The current health of the detainee; [72.6.3(a)]
  - eee. Any medications being taken; [72.6.3(b)]
  - fff. Behavioral observations, including consciousness and mental status (also see **Suicide Risk Screening** in this policy); and [72.6.3(c)]
  - ggg. A notation of any obvious body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc. [72.6.3(d)]

Note: All observations shall be noted on the intake form.

## 27. TREATMENT

- hhh. Medical treatment shall be arranged for any detainee in need of medical treatment. See department policy on ***Detaining Prisoners***.
- iii. No employee shall be allowed to go beyond the scope of his/her training in administering to the emergency or special medical needs of any person held in the custody of this department. This scope is determined by the level of emergency medical training of the individual members of the department (i.e., CPR, First Responder, EMT, etc.).

## I. Group Arrests and Overflow Situations [72.5.6]

### 28. DETAINEE INTAKE

- jjj. In the event of a group arrest, detainees arriving at the station will be placed in a holding cell, with multiple detainees in a single cell if necessary, or otherwise secured as directed by the officer-in-charge.
  - kkk. If, as the result of a group arrest, or at any other time, the officer-in-charge determines that the number of persons to be detained in the holding facility will exceed the number for which the facility was designed, [s]he may authorize the overcrowding on a temporary basis.
- 43) Non-violent, low security risk detainees may be held as a group, if from the same incident or by sex and age in the following locations: **Training room.**
- 44) The temporary overcrowding of this area is permitted under these circumstances until such time as the overcrowding situation can reasonably be relieved, typically through the transfer or release of persons being held.
- 45) In order to accomplish this, the officer-in-charge shall examine the list of detainees and attempt to expedite the bail or release of the less serious offenders.
- 46) If release of a sufficient number of detainees to relieve the overcrowding of the holding facility is not possible, the officer-in-charge may request the use of a neighboring police department's holding facilities, with the use of this department's personnel to maintain security and control, if requested by the other department.
- III. The officer-in-charge is authorized to call in such additional personnel as may be necessary to satisfy the staffing requirements of the overflow situation.

29. DETAINEE PROCESSING: Each detainee will be brought to a booking area to be booked and fully processed.

## J. Handling Juveniles and Females

### 30. DETAINEE PROCESSING

mmm. When a child between the ages of seven (7) and Eighteen (18) is arrested with or without a warrant, the department policy and procedure **Handling Juveniles** shall be followed. Persons age Nineteen (19) and older are considered adults for the purposes of criminal law.

nnn. Juveniles shall not be booked at the same time as adult arrestees.

ooo. Females shall not be booked at the same time as male arrestees.

31. DETAINEE HOLDING: See the department policy on **Holding Facility**.

## K. Bail and Arraignment

32. COURT BUSINESS HOURS: If the court is in session when the booking process and all related arrest reports are completed, it shall be the responsibility of the officer-in-charge to ensure that the arrestee is transported to the court without delay. [72.7.1(a)]

33. COURT NOT IN SESSION: If the court is not in session when the booking process and all related reports are completed, the arrestee shall be confined in the holding facility until bail can be arranged, or if bail cannot be arranged, until the next session of the court.

### 34. BAIL

ppp. Arrestees shall be informed of the right to bail and afforded the opportunity for bail.

qqq. It shall be the responsibility of the officer-in-charge to ensure that an arrestee's opportunity to make bail is not impeded.

rrr. Bail shall be determined by the bail clerk.

sss. Requesting Bail:

47) Prior to contacting the bail clerk, officers should have the following information available:

- s) Identity of the person for whom bail is to be determined. If the identity is in question, the bail clerk shall be so advised.
- t) Residence of the person.
- u) Age of the person.
- v) Offenses charged.
- w) Criminal history (BOP).
- x) History of court defaults (BOP).
- y) Issues relating to dangerousness, if appropriate.
- z) Detainee funds and whether or not the detainee wishes to be bailed.

48) The detainee shall be advised of his/her bail status. If the detainee has funds and wishes to be bailed, the bail clerk should be so advised.

49) If the detainee does not have funds and wishes to be bailed, the detainee may attempt to call others for funds.

ttt. When the bail money is at the police station, the bail clerk shall be called and so advised.

50) Police employees shall not take bail money from persons wishing to bail the detainee. They must wait with the funds for the arrival of the bail clerk.

- 51) The bail clerk shall be provided with the booking paperwork, application for complaint, criminal citation, or served warrant.
- 52) The detainee's cell shall be inspected for contraband and fresh damage caused by the detainee. The detainee shall be escorted to the bail clerk from the holding cell by a police officer to be processed for bail.
- 53) Detainees under arrest that are also in protective custody may be returned to custody after being bailed until such time as they may be released. See the department policy on **Protective Custody**.

### 35. PROBABLE CAUSE HEARING

- uuu. Detainees who are not released on bail within twenty-four hours following an arrest on charges for which probable cause has not been determined by a judge or magistrate are entitled to a probable cause hearing.
- vvv. The arresting officer or shift supervisor shall report the facts under the Jenkins Rule orally or in writing, to a neutral magistrate (usually the Clerk of Courts).
- www. The probable cause review must take place within twenty-four hours.
- xxx. In the event that the review cannot take place due to extraordinary circumstances, the hearing should take place as soon as possible and the reason for the delay documented.
- yyy. In the event a detainee can not make bail and is held for an extended period of time, that detainee at the discretion of the supervisor may be transferred to the Middlesex County Sheriff or state approved Juvenile facility if an exigent circumstance exists.

36. VIOLENT OR UNCONTROLLABLE DETAINEES: See the department policy on **Detaining Prisoners**.

## L. Release of a Detainee

### 37. RETURN OF PROPERTY

- zzz. All items of property shall be compared to the items listed on the inventory report and the individual shall be requested to sign the form indicating that [s]he has received the property. A refusal to sign shall be noted in writing on the inventory report.
- aaaa. Any items which were held for evidence or as contraband shall be indicated on the inventory report.

38. CHANGE OF MEDICAL CONDITION: The medical screening information shall be rechecked, and any changes from the condition at entry shall be noted on the intake form. An inquiry shall be made as to the origin of any changes in condition, and the answers shall be documented on the intake form.

39. HOLDING CELL INSPECTION: The cell shall be searched for weapons, contraband and damages, and the detainee criminally charged for any damage caused by him or her. Any unusual conditions shall be reported to the Chief of Police or his/her designee.

## M. Receiving Persons from Outside Agencies [72.5.5]

### 40. INTAKE OF DETAINEE

- bbbb. Upon receiving a detainee from another law enforcement agency, the in-processing officer shall:
- 54) Ensure the identity of the officer in whose custody the detainee is being held.
- aa) If the officer is known to the receiving officer, no further identification is necessary.
- bb) Obtain and make a photocopy for the file of a government (police, parole, federal government) identification card or document.
- 55) Verify the authority of the person making the commitment. Commitments must be made under the authority of the individual's employment. The following persons may request that this department accept their prisoner:

- cc) A law enforcement officer;
  - dd) A corrections officer;
  - ee) A deputy sheriff authorized to serve criminal process; and
  - ff) A constable, provided that the detainee is charged with a criminal offense.
- 56) Obtain detainee information from the delivering officer. The information should include:
- gg) A copy of any booking sheet;
  - hh) Any court documents if the detainee is to be bailed; and
  - ii) A point of contact and telephone number where a responsible member of the delivering agency can be reached at any time during the day or night.
- 57) The delivering officer shall fill out this department's detainee intake form.
- 58) The detainee shall be screened for medical issues. See **Medical Screening and Treatment Procedure** in this policy.

#### 41. DETAINEE PROPERTY

cccc. Detainee property will not be accepted. It is the responsibility of the agency for which the detainee is being held.

dddd. The detainee shall be searched and then placed in a cell.

42. SPECIAL DETAINEE HANDLING: Supervision for hospitalization, high level suicide watch, or other special handling shall be the responsibility of the delivering agency.

43. BAIL: Detainees may be bailed from custody if bail is set by the bail clerk in the jurisdiction of the delivering agency.

# DETAINING PRISONERS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.04</b>	ISSUE DATE: 9/11/2014
	EFFECTIVE DATE: 1/1/2015
	REVISION DATE: 3/2/15
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>70.3.2; 72.1.2; 72.4.1; 72.4.2; 72.4.5; 72.4.7; 72.4.10; 72.5.4; 72.5.5; 72.5.7; 72.6.1; 72.6.5; 72.7.1; 72.8.1; 72.8.2; 72.8.3; 72.8.4; 72.8.5</b>	

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The focus of this policy is the care, safety and security of detainees being held in the custody of this department.

While detainees are being held in police custody, their well-being is the responsibility of the department. Even though prisoners are normally housed for only short periods of time, the environment of police lockups can become volatile and emotionally charged, as evidenced by incidents of prisoner suicide and injury. Post-arrest detention is a time when the emotional impact of the arrest becomes evident to many prisoners. Particularly prone to actions which may cause injury to themselves or others are persons with mental illness, persons who are intoxicated due to drug or alcohol use, drug addicts, and persons who have other arrest warrants against them. Strict adherence to procedures governing the monitoring of prisoners and the bringing of weapons and tools into the cell block area is necessary to ensure facility security and prisoner well-being.

## II. POLICY

It is the policy of this department to operate the holding facility in a manner which ensures detainee and officer safety and protects the constitutional rights of detainees.

## III. PROCEDURES

### A. Prisoner Supervision

#### 1. ACCOUNTABILITY FOR DETAINEES

- Upon each change of shift, the off-going supervisor shall inform the incoming supervisor of the number of persons being detained in the holding facility.

- b. The off-going dispatcher shall inform the incoming dispatcher of the number of persons being detained in the holding facility.
- c. This briefing shall include:
  - 1) Any bail status;
  - 2) Suicide risks;
  - 3) Injuries, medical or medication issues;
  - 4) Need for Jenkins hearings; and
  - 5) Detainees at other facilities (hospital, KEY program, etc.).
- d. The incoming supervisor shall conduct a physical check of each detainee to verify the number of persons being held. In any event, such detainee count shall be done at least once every eight hours.

## 2. DETAINEE MONITORING UNDER NORMAL CONDITIONS [72.8.1]

- e. There shall be a twenty-four-hour per day supervision of detainees by department staff.
- f. The officer-in-charge shall be responsible to ensure that regular checks are made of each detainee and that such checks are properly recorded.
- g. Detainee checks may be made by physically looking in the cell to observe the detainee and listening to the sounds emanating from the cell area to ensure that the detainee is all right. Such physical checks shall normally be made at least every thirty minutes by a police officer or prisoner watch personnel.
- h. Additional detainee checks may be augmented by:
  - 6) Looking at the detainee on the cell video monitor and listening to the sounds emanating from the holding cell; and
  - 7) If either audio or video is inoperative, or there is any question as to the condition of the detainee, making the checks physically.
- i. Checks of the detainee shall be documented by using the cell check recording system or, if such system is inoperative, by logging the checks on paper., or into the dispatch log on the dispatchers console.

## 3. SUICIDAL DETAINEES

- j. For any detainee who exhibits any signs or symptoms of suicidal behavior, obtains a medium or higher rating on the suicide risk screening during booking, or whose name appears on the Q5 query, the supervisor shall be immediately notified.
- k. The supervisor shall determine if a detainee should be placed on suicide watch. A detainee shall be placed on suicide watch if:
  - 8) The risk screening indicates a medium or higher suicide risk;
  - 9) The detainee exhibits signs or symptoms of suicidal behavior;
  - 10) The detainee threatens to commit suicide;
  - 11) The detainee attempts to commit suicide;
  - 12) The detainee's name appears on the Q5, Suicide Risk File; or
  - 13) The detainee is brought to a hospital for a mental health evaluation, released, and returned to the police holding facility.
- l. The level of a suicide watch shall be proportional to the degree of the detainee's suicide risk.
- m. The officer-in-charge shall consider the detainee's charges, mental state, behavior and other factors and determine if the detainee should be transported to a hospital for a mental health evaluation. See the department policy regarding ***Handling the Mentally III.***

- n. In-Station Incidents: Whenever any detainee attempts or threatens suicide within the holding facility, the officer-in-charge shall do the following:
  - 14) Write or cause to be written an incident report.
  - 15) Prior to the end of the shift, but within twenty-four hours of such incident, enter the detainee's name and other required information into the CJIS Suicide Risk File.
  - 16) If a detainee attempts or threatens suicide while in police custody and is transferred to another holding facility, the shift supervisor is responsible to notify the receiving facility, in writing, of the exact nature of the attempt or threat. A copy of the suicide risk form shall accompany the detainee to the next facility and shall be given to the accepting staff.
- o. In the event that an individual brought to a hospital or medical facility for a suicide evaluation is returned to the holding facility for detainment, the officer-in-charge shall institute a suicide watch until such time as the detainee is released from custody or transferred to another agency.

#### 4. SUICIDE WATCH

- p. Low Risk suicide watch may include:
  - 17) Awareness of the detainee's condition and behavior;
  - 18) Physical checks of the detainee every thirty minutes by a police officer or prisoner watch personnel; and
  - 19) Periodic audio monitoring of the detainee's cell.
- q. Medium Risk suicide watch may include, at the supervisor's discretion:
  - 20) A more heightened awareness of the detainee's condition and behavior;
  - 21) Checks of the detainee every fifteen minutes by a police officer or prisoner watch personnel; and
  - 22) Periodic audio monitoring of the detainee's cell.
- r. High Risk suicide watch may include, at the supervisor's discretion:
  - 23) Heightened vigilance of the detainee's condition and behavior;
  - 24) Physical checks of the detainee at ten minute intervals; by a police officer or prisoner watch personnel; and.
  - 25) More frequent audio monitoring of the detainee's cell.
- s. Very High Risk suicide watch may include, at the supervisor's discretion, any of the following:
  - 26) A very high degree of vigilance of the detainee's condition and behavior;
  - 27) Constant observation of the detainee by a police officer or prisoner watch personnel; and
  - 28) Constant monitoring of audio from the detainee's cell.

#### 5. MONITORING DETAINEE ACTIVITIES

- t. Monitoring detainees of the opposite sex
  - 29) Detainees should be supervised by department staff of the same sex as the detainee. When this is not possible, there should be at least two employees present during all physical contact with detainee(s) of the opposite sex.
  - 30) Employees monitoring detainees of the opposite sex shall respect the detainee's privacy rights within the limits of facility security. A matron shall supervise all female detainees at all stations to which a matron is assigned. [72.8.3]
- u. Audio and video monitoring

- 31) Any video monitors and audio listening devices installed in the cell block areas shall be turned on whenever a person is placed into one of the cells in the holding facility and shall be left on as long as anyone is being detained there.
- 32) In order to accommodate the personal privacy rights of individuals held in the facility: [72.8.2]
- a) When a detainee speaks to his/her attorney, the audio listening devices will be turned off during the visit. The video shall remain on and be monitored for the protection of the attorney. [72.7.1(c)]
  - b) When a detainee is using the toilet facility, the audio and visual devices will be turned off for a short time if an officer or other monitor is present to help ensure security and safety.
- 33) Cell monitoring equipment is never to be used for covert purposes.

## **B. Medical Care [72.6.1]**

### **6. FIRST RESPONDER**

- v. No department employees shall be allowed to go beyond the scope of their training in administering to the emergency or special medical needs of any person held in the custody of this department (i.e., CPR, First Responder, EMT, etc.).
- w. An ambulance shall be called when any detainee requests and/or is deemed in need of medical attention.
- x. A log entry shall be created for all medical assistance received by a detainee.
- y. When a detainee is transferred to an area hospital, [s]he shall be transported by ambulance to the Emergency Room of the departmentally specified hospital. For further information, see the department policy on ***Transportation of Detainees***.

### **7. MEDICATION**

- z. Detainees are permitted to take any necessary medication, over-the-counter or prescription, specifically prescribed in writing by a licensed medical provider, provided that the administration of the drugs is requested by the detainee. [72.6.5]
- 34) Only the quantity of medication specified by the prescribing practitioner shall be given to the detainee.
- 35) Any medications brought in by a detainee, or given to him/her in the course of any treatment [s]he may require while in department custody, shall be retained with the detainee's property.
- 36) If there is any question concerning the administration of medications, the officer-in-charge may either confer by telephone with a qualified medical physician or pharmacist before administering the medication, medics may be called, or the detainee may be transported to the hospital and the medication administered there.
- 37) The detainee may only receive the dosage of medication as noted on the label, and the administering officer must witness the detainee taking the medication.
- 38) A written record of any medications administered to a detainee shall be maintained.
- NOTE:** G.L. c. 94C, § 9 prohibits the administration of a controlled substance by non-licensed persons. This policy simply affords a detainee the opportunity to self-administer prescribed medicine in accordance with label directions.

## **C. Handling Violent, Intoxicated, Self-destructive Persons [72.5.4]**

### **8. DETENTION**

- aa. The priority of police actions in dealing with violent, self-destructive, or intoxicated detainees is the protection from injury of the police staff, other detainees, and the detainee.



- bb. Segregation or additional restraints shall not involve any other penalty other than the segregation or restraint. There shall be no abridgment of rights or privileges that would normally be granted to any other detainee.
- cc. Any detainee who is uncontrollable due to the influence of alcohol or drugs, or is violent or otherwise self-destructive, shall, if transportation or removal to a detoxification or other mental health facility is not feasible, be placed in a single occupancy cell as deemed appropriate by the officer-in-charge. Under no circumstances shall this type of detainee be placed in a cell occupied by another person.
- dd. All detainee behavior which requires segregation, restraint, transfer, or police response shall be included in an incident report.
- ee. Such detainee shall be continuously monitored by a police officer or prisoner watch personnel. The detainee's behavior should be taped or otherwise captured on video and audio, and the recording preserved, if the agency is so equipped.

ff. IN-CELL RESTRAINT

- 9. If, in the judgment of a supervisor, a detainee becomes violent or uncontrollable, the detainee may be restrained while in the cell. Such restraint may include the use of:

- gg. Handcuffs;

- 39)Waist chains; and

- 40)Restraint chair.

- 41)Detainees should not be "hogtied" due to the risk of positional asphyxia.

hh. HARMFUL CONDITIONS

10. Conditions

- ii. If the suspect displays impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibited great strength and/or a diminished sensitivity to pain, the individual may be showing signs of excited delirium. Immediately after a struggle, sudden death may ensue.

- 42)Persons suffering from cocaine intoxication, particularly if additional alcohol is used, are subject to increased blood pressure, heart rate and body temperature. Sudden death may occur in such persons.

- 43)Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness and have lumpiness of skeletal muscles may be suffering from neuroleptic malignant syndrome and may also be prone to sudden death.

44)Precautions

- jj. Detainees displaying these symptoms should be checked by ambulance personnel.

- 45)Such detainees should be closely monitored through video and audio monitoring or physical monitoring, if such monitoring can be done without further exciting the detainee.

- 46)TRANSFER OF CUSTODY: In cases where the detainee's actions pose a definite threat to the safety of the staff, other detainees, the detainee, or the security of the holding facility, the supervisor may attempt to make arrangements with corrections officials for transfer to their custody.

11. IN-CELL ARRAIGNMENT

- 12. In the event that detainee's actions pose a definite threat to the safety of the staff, other detainees, the detainee, or the security of the holding facility, the supervisor may request that the detainee be arraigned in the holding cell.

- kk. Such arraignment may be followed up by a release from custody or transfer to the Sheriff's Department.

## II. Meals

- D. Three meals will be provided to each detainee during each twenty-four hour period. Meals shall be provided at regular meal times; however, no more than fourteen hours shall elapse between any meals. [72.7.1(f)]
13. The morning meal should be provided in time to be consumed prior to being transported to court on any day that court is in session.
14. Detainee meals shall be provided by a vendor designated by the department. **[INCLUDE ANY INSTRUCTIONS REGARDING OBTAINING MEALS.]**
15. The content of meals shall be designated by the department and should be substantial enough to provide adequate nourishment for the detainee.
16. Any special diet that is required in accordance with treatment prescribed by a licensed physician will be granted whenever possible, within the parameters of cost effectiveness and available resources.
17. Meals and food brought to a detainee by a family member or friend are discouraged, but may be provided at the discretion of a supervisor. All meals or food shall be subject to search prior to being allowed into the holding facility.
18. No metal eating utensils or containers are allowed in the cell block area. All eating utensils shall be flexible, disposable plastic and shall not be re-used. [72.4.7]
19. Drinking cups shall be disposable plastic or paper. No common cups shall be shared among detainees. No cups shall be re-used.
20. All containers shall be removed from the cell upon completion of the meal.
21. A record of meals served shall be kept by creating a log entry.
22. All meals shall be at the expense of the detainee, unless the detainee has no means of payment for such meal. In this case, detainee's meals shall be paid for by the arresting agency.

## 23. Entering Cell Area

### E. GENERALLY

24. Except during an emergency, such as a fire, firearms are not allowed in the cell area. [72.4.1]
- mm. Whenever an officer closes a cell door to secure a detainee, the officer shall check the door to ensure that it is securely locked.
- nn. If any problems in securing a cell door are encountered:
- oo. The detainee shall be moved to an operational cell;
  - 47) The cell shall be taken out of service;
  - 48) The supervisor shall be notified; and
  - 49) The holding facility manager shall be notified to make arrangements for repair.

### 50) OCCUPIED CELLS

25. An officer or medic may only enter an occupied cell when: [72.4.2]
- pp. At least one other officer is present, the officer is being actively monitored by another employee through audio-visual equipment, or is carrying a panic alarm;
  - 51) A medical or other emergency exists; or
  - 52) When releasing a prisoner from custody.
- 53) Cells may be entered for the purpose of:

- qq. Feeding the detainee;
- 54) Providing blankets to the detainee;
- 55) Removing refuse;
- 56) Providing medication;
- 57) Checking on the status of a sleeping or unconscious detainee;
- 58) Conducting medical evaluations;
- 59) Restraining the detainee; and
- 60) Other necessary law enforcement purposes.

61) Nonessential personnel [72.1.2]

- rr. Nonessential personnel will generally not be allowed access to the holding area while any cell in that area is occupied by a detainee. Escorted access may be authorized by a supervisor.
- 62) Repairs or maintenance shall not be conducted in an occupied cell.
- 63) Members of the media shall have access to the cell block area only when the area is unoccupied, unless specifically authorized by the Chief of Police.
- 64) Tour groups shall be allowed in the cell block area only when the cell block is unoccupied.
- 65) When nonessential persons are granted access to the detainee holding area, their presence should not violate a detainee's privacy, impede facility operations, or frustrate future prosecutions.

## **66) Detainee Visitors [72.8.5]**

### **F. DETAINEE VISITS**

#### **26. Generally**

- ss. Persons held in police holding facilities do not have a right to visits.
- 67) Visits to detainees are discouraged.
- 68) No visits shall take place unless authorized by a supervisor.

#### **69) Approved Visitors**

- tt. Parents or guardians of juveniles may be approved.
- 70) An attorney representing the detainee may be approved.
- 71) Consular officials (foreign nationals) may be approved. See the department policy on ***Consular Notifications***.
- 72) Immediate family members may be approved.
- 73) Relatives who are not immediate family or friends of the detainee do not have visitation rights. It will be the decision of the officer-in-charge regarding any special or extenuating circumstances which might justify such individuals being allowed to visit the detainee.

#### **74) Visitor Security**

- uu. Visitors must show positive picture identification, preferably a driver's license;
- 75) Visitors must be notified, prior to gaining access to the cell block area, that [s]he and his/her belongings are subject to a search and, at the discretion of the officer-in-charge, submit to a such search upon entrance to and exit from the area.
- 76) Visitors must sign-in and record name, address, and relationship to the prisoner.
- 77) The time the visitor enters and leaves the cell block is recorded.

78) An officer shall be in the cell block area during any visit, except an attorney's visit with his/her client.

79) No personal belongings of visitors (including pocketbooks and backpacks) are allowed into the cell block. [72.8.4]

## 80) ITEMS LEFT FOR DETAINEE

27. Friends and family members may be requested by a detainee to leave change of clothing for court, medications, and other personal items.

vv. Any mail, packages, or other items to be given to a detainee shall be examined thoroughly by a police officer before being given to the detainee. [72.8.4(a)]

ww. The supervisor shall have full authority to prohibit mail, a package, or any item in a package from being delivered. The following list of items is authorized: [72.8.4(a)]

xx. Clothing and shoes for court;

81) Medications;

82) Identification;

83) Factory-sealed beverages in plastic containers, no metal;

84) Food (see meals, this policy); and

**85) [Insert authorized items.]**

86) A record shall be made of all items received by the detainee in his/her property record. No item will be given to a detainee without the approval of the officer-in-charge. [72.8.4(c)]

yy. Items not specifically authorized under this policy or allowed by the supervisor may not be left for or provided to detainees. [72.8.4(b)]

zz. Distribution of items:

aaa. Clothing may be exchanged for clothing worn by the detainee. Detainee shall not have extra clothing in the cell.

87) Food items may be given to the detainee.

88) Medication may be given to the detainee in accordance with this policy. See **Medication** in this policy.

89) Other items shall be stored with the detainee's property unless otherwise directed by a supervisor.

## 90) ACCESS TO COUNSEL

28. Attorneys do not have an absolute right of access to a detainee.

bbb. Barring a specific right to counsel, attorneys may have access to a detainee: [72.7.1(c)]

ccc. If approved by a supervisor;

91) If the detainee wants to meet with the attorney;

92) If the operation of the Police Department will not be unduly disrupted; and

93) If staffing allows.

94) Attorneys shall comply with visitor security rules, or they will not be admitted.

ddd. An attorney may meet with a detainee in the detainee's cell or an interview room, provided: [72.7.1(c)]

eee. Audio monitoring devices are turned off in respect to the attorney to client privilege;

95) An officer remains in the general vicinity of the cell or room, out of hearing, but within sight if possible; and

96) The visit is monitored via video by a department employee for the safety of the attorney.

## 97) Release/Transfer of a Detainee

G. BAIL AND PROBABLE CAUSE HEARINGS: Bail is determined by the bail commissioner. Probable cause is determined by the Clerk or Assistant Clerk of Courts. For further information see the department policy on ***Detainee Processing***.

### 29. RELEASING DETAINEE [72.5.7]

30. Detainee Identity: Verify which detainee is to be released.

fff. Positively Identify the Detainee Prior to Release: The releasing officer shall positively identify that the detainee to be released is, in fact, the correct detainee. Positive identification may be ascertained from another employee, or by checking the identification of the detainee against the description, booking photo, cell number, and booking photo, etc.

ggg. TRANSFER TO ANOTHER AGENCY: See department policy ***Transportation of Prisoners*** for procedures to follow when a detainee is transferred to another agency or to court.

31. JUVENILES: See department policy on ***Handling Juveniles*** for procedures to follow when a juvenile is to be released.

## 32. Supervising Detainees at the Hospital [70.3.2]

### H. GENERALLY

33. Trips outside of the confines of the holding facility present detainees with an increased opportunity to assault staff members or escape. Accomplices mixed in with the public may take supervising officers by surprise. Officers must remain vigilant while supervising detainees at a hospital.

hhh. Supervisors should consider rotating staff through hospital posts every few hours to relieve boredom and complacency on the part of the officers.

iii. Supervisors should consider providing officers with a copy of this section of this policy when detainees are transported to a hospital for treatment.

### jjj. TRANSPORTATION

34. The dispatcher shall log an incident for detainees transported to a hospital.

kkk. See the department policy on ***Transportation of Detainees***.

### III. ACCOUNTABILITY

35. Detainees brought to a hospital for a mental health evaluation shall remain the responsibility of the transporting officer until such time that custody is transferred to the receiving hospital's personnel.

mmm. Detainees brought to a hospital under arrest shall remain the responsibility of the supervising officer until relieved by another officer, the custody of the detainee is transferred to another entity, the detainee is bailed, or the detainee is returned to the holding facility.

### nnn. NOTIFICATION OF HOSPITAL POLICE

36. When a detainee is transported to a hospital, the dispatcher or another department member shall notify the hospital police or security.

ooo. If there are any unusual risks or circumstances, the hospital police or security shall be advised.

### ppp. SECURITY OF DETAINEE

37. Violent or high security risk detainees may be accompanied by more than one officer while at the hospital, at the discretion of a supervisor.

qqq. Officers may employ a higher level of security and vigilance for such detainees than is presented in this policy.

rrr. The detainee shall remain restrained while at the hospital unless the removal of restraints is required for medical reasons. The following restraints are acceptable:

sss. Detainee handcuffed with hands in front and hands together;

98) Detainee handcuffed one hand to the bed, stretcher or gurney; and

99) Leg restraints.

100) The supervising officer shall remain in the area of the detainee at all times, unless medical necessity dictates otherwise. In such an event, the officer should attempt to remain in a position to monitor the detainee as best [s]he can to prevent the escape of the detainee.

ttt. The supervising officer must remain alert for others who may assist the detainee in escaping or harm the detainee.

uuu. The supervising officer must be aware of potential weapons in the immediate are of the detainee.

#### vvv. EMERGENCY TREATMENT

38. The supervising officer shall accompany the detainee through registration and triage. His/her knowledge may be helpful to medical staff in evaluating the detainee's claims of sickness or injury.

www. The officer should make periodic inquiries as to the progress of the evaluation and treatment, and keep the supervisor up to date for the purpose of planning for staffing.

#### xxx. ADMITTANCE

39. In the event that the detainee is admitted, the officer should request that the detainee be placed in a private room for security purposes and the safety of other patients and staff members. A private bathroom with a single door is desirable.

yyy. Advise the dispatcher of the nature of the situation, room number, room telephone number and estimated length of in-patient treatment.

zzz. The dispatcher shall relay this information to the shift supervisor and the hospital police or security department.

aaaa. The officer shall sweep the interior of the room, closets, and bathroom for unnecessary potential weapons within reach of the detainee.

bbbb. The officer must remain in the room or just outside of the room, but always within site of the detainee.

#### cccc. EATING

40. The officers should advise hospital staff that the detainee should be fed using disposable plates, cups and dinnerware.

dddd. The officer should visually inspect any meals or beverages prior to their being given to the detainee.

#### eeee. BATHROOM

41. The bathroom should be checked for potential weapons or routes of escape prior to being used by the detainee.

ffff. If the bathroom is shared with an adjoining room, the door for the other room should be locked prior to being used by the detainee. If the door locks from the inside only, the adjoining room door should be locked and the detainee's door should remain open. The officer may be mindful of the detainee's privacy, but must remain vigilant for signs of the detainee's using the other door to escape.

gggg. The detainee may be un-restrained, if necessary, to use the bathroom. The officer shall stay within sight/sound of the detainee.

hhhh. If the detainee needs assistance in using the bathroom, hospital staff must assist the detainee. The armed officer should not lift or steady the detainee.

#### iiii. VISITORS

42. Detainees are under arrest and in police custody.

jjjj. The visitation policy that applies to the holding facility applies to the hospital as well.

#### kkkk. BAIL OR ARRAIGNMENT

43. In the event that a detainee will be admitted to a hospital for an extended period of time, a supervisor may consider bailing the detainee at the hospital.

llll. The supervisor may also request that the court arraign the detainee at the hospital.

mmmm. **RELEASE:** Upon release of the detainee from the hospital, the supervising officer shall:

44. Obtain any prescriptions and dosage instructions;

nnnn. Obtain any instructions for care of the detainee, including follow-up visits, while in custody;

oooo. Advise the dispatcher of the release from the hospital and the return trip to the holding facility;

pppp. Transport the detainee back to the holding facility;

qqqq. Return the detainee to the holding cell;

rrrr. Brief the dispatcher on any medications, care, or return visits while in custody, and create written instructions for subsequent shifts, if necessary; and

ssss. Have the dispatcher annotate the return time in the log.

#### tttt. **Receiving Persons from Outside Agencies [72.5.5]**

I. M.G.L. c. 40 §37 requires that "lockups shall at all reasonable hours be accessible to the state police, sheriffs, constables and police officers for any legal and proper use."

45. Detainees may be held for other agencies. For information on detainee intake, see the department policy on Detainee Processing.

46. Unless bailed, released, or transferred, detainees shall be returned to the custody of the delivering agency.

47. For further information, see **Release/Transfer** of Detainees in this policy.

#### 48. **Escapes**

J. In the event of an escape of a detainee from the department's holding facility: [72.4.10]

49. The dispatcher shall immediately broadcast to all patrol units the name and a description of the escapee, the estimated time of escape, whether armed, whether on foot or in a vehicle, the possible direction of travel, and any other pertinent information.

uuuu. An immediate search shall commence under the direction of the officer-in-charge and the patrol supervisor. The use of a K-9 should be considered.

vvvv. The dispatcher should consider contacting local cab companies to inquire if requests have been made for pick-ups and to alert them for possible fares.

www. The dispatcher shall then broadcast the same information to other area departments and agencies over the radio system.

xxxx. As soon as possible, a message shall be sent over the CJIS system, advising other departments and agencies of the situation.

yyyy. Should the escapee be caught, the dispatcher shall notify other law enforcement agencies of this fact through the appropriate communications channels, according to the time frame of the capture.





# TEMPORARY HOLDING FACILITIES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.05</b>	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>71.1.1; 71.2.1; 71.3.1; 71.3.2; 71.3.3; 71.4.1; 71.4.2; 71.4.3</b>	EFFECTIVE DATE: _____
	REVISION DATE: _____

## I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy applies to departments that may occasionally hold a detainee unattended in a room or area outside the cell block, such as an interview room, for the purpose of processing, questioning, or testing. This policy applies to all departments, even those that do not book or hold detainees at their facility, unless the department has a written directive stating that at no time will the department leave detainees unattended outside the confines of the holding facility for processing. Processing includes pre-booking activities involving detainees in custody (such as interviewing, etc.).

## II. POLICY

It is the policy of this department that detainees may be held in a temporary holding area, without continuous control or supervision of department employees, for a period not exceeding two hours.

## III. DEFINITIONS

- A. *Temporary Holding Area*: A room, space or area, for the processing, questioning or testing of detainees where they may not be subject to the continuous control or supervision of department personnel in the same room, space or area. The time period for which a detainee may be held under these circumstances may not exceed two hours. In rare circumstances, a detainee may be restrained to a fixed object, designed and intended only for such use, for no longer than two hours. Such areas usually include booking areas, interview rooms, processing rooms, breathalyzer rooms and other detainee waiting areas or rooms.

## IV. PROCEDURES

### B. Designation of Temporary Holding Areas

1. One or more rooms or areas shall be designated as temporary holding areas. [71.1.1]
2. The department has determined that the following may be used as a temporary holding area: **[ The cage area in the booking room.]**

### C. Use of Temporary Holding Facilities

3. **GENERALLY**

- a. Prior to taking a detainee into a temporary holding area, the officer taking custody of the detainee shall:
  - 1) Notify the dispatcher;
  - 2) Search the area for weapons, contraband or other unauthorized items; and
  - 3) Search the detainee.
- b. The dispatcher shall document the reason, date, and time in and out of the facility, as well as any meals or personal service provided while the detainee is in a temporary holding area. [71.3.1(a)]
- c. Males, females and juveniles shall not be detained in the same area. Juveniles shall be detained in accordance with the department policy on **Handling Juveniles**. [71.3.1(e)]
- d. Detainees shall be allowed reasonable access to a restroom, drinking water, and other needs as appropriate. [71.4.1]

## D. Safety and Security

4. SECURITY: All the procedures outlined below are intended to prevent the escape of detainees. [71.3.3(d)]
  - e. Officers shall secure their weapons in an approved storage device prior to entering a temporary holding area containing a detainee. [71.3.3(a)]
  - f. The officer taking custody of the detainee shall be responsible for inspecting the area for weapons, contraband, or objects that could be used as weapons before placing a detainee in a temporary holding area, and immediately after removal from the detention area. [71.3.1(b)]
  - g. The officer taking custody of the detainee shall be responsible for the supervision and monitoring of the detainee. Detainees should be physically observed and/or electronically monitored continuously, but in any event, there shall be a visual observation of each detainee at least every thirty minutes, with the checks properly recorded. [71.3.3(e)(f); 71.3.1(c)]
  - h. The officer taking custody of the detainee is responsible for ensuring that detainees are properly restrained. [71.3.1(d)]
  - i. Access to in-use temporary detention areas and detainees shall be limited to the arresting officer(s), supervisors, and investigating officers. [71.3.3(c)]
  - j. **[IF THE DETENTION AREA IS EQUIPPED WITH A DURESS ALARM, EDIT THIS SECTION.]** Any officer entering the holding area may use a radio duress button, radio, telephone, oral alarm or any other available means of communication to obtain assistance. [71.3.3(b)]

## 5. FIRE/EMERGENCY

- k. Fire suppression equipment shall be located in easily accessible locations out of reach of a detainee.
- l. An emergency evacuation, fire prevention, and fire suppression plan shall be posted at the entrance to each temporary holding area. [71.4.2]

## E. Inspections / Review [71.4.3]

6. PERIODIC INSPECTION: All temporary detention areas shall be inspected monthly by **Supervisor in Charge of the Services Division**. The inspection shall cover:
  - m. Search for weapons or contraband;
  - n. Removal of unauthorized items; and
  - o. Operability of door locks, communications equipment, audio and video equipment
  - p. The inspection reports shall be filed **[By the Supervisor in Charge of the Services Division]**.
7. REVIEW: The Chief shall cause an administrative review of the areas and procedures to be conducted at least once every three years.



## PROTECTIVE CUSTODY

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.06</b>	ISSUE DATE: <b>9/11/14</b>
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>1.2.4; 44.2.2; 61.3.3; 70.3.2; 70.5.1; 71.6.6; 72.5.4; 72.6.1; 72.8.1</b>	EFFECTIVE DATE: <b>1/1/15</b>
	REVISION DATE: <b>1/28/20</b>

### POLICY

The Police Department shall comply with the requirements of Section 8 of Chapter 111B of the Massachusetts General Laws when taking an intoxicated person into protective custody.

The Police Department shall comply with the requirements of Section 9A of Chapter 111E of the Massachusetts General Laws when taking an incapacitated person into protective custody.

### PROCEDURES

#### I. INCAPACITATED BY ALCOHOL

##### A. DEFINITIONS

1. **Facility:** Any public or private place, or portion thereof, providing services especially for the detoxification of intoxicated persons or alcoholics.
2. **Incapacitated:** The condition of an intoxicated person who, by reason of the consumption of intoxicating liquor, is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly.

##### B. TAKING CUSTODY

- a. In the absence of an accompanying crime, an officer shall not arrest an intoxicated person. If the situation does not warrant an arrest, but action is necessary, a police officer has the authority to assist an incapacitated person, with or without his/her consent, to his/her residence, to a treatment facility, or to the police station. While not required, officers are urged to obtain consent where possible.
- b. In order to determine whether or not a person is intoxicated, an officer may request such person to submit to reasonable tests of coordination, coherency of speech, and breath. Examples of such tests are listed at the end of Section I of this Policy and Procedure.

- c. Any incapacitated person assisted to the police station shall have the right after arriving at the station to request and be administered a breathalyzer test and shall immediately be informed of such right, with said communication appropriately documented.

**NOTE:** The following notice will be provided.

**NOTICE OF RIGHTS**

THIS IS TO INFORM YOU THAT PURSUANT TO CHAPTER 111B, SECTION 8 OF THE MASSACHUSETTS GENERAL LAWS, YOU HAVE THE RIGHT TO REQUEST AND BE ADMINISTERED A BREATHALYZER TEST. IF YOU ARE TO BE HELD IN PROTECTIVE CUSTODY, YOU ALSO HAVE THE RIGHT TO MAKE ONE TELEPHONE CALL AT YOUR OWN EXPENSE ON YOUR OWN BEHALF.

- d. Breathalyzer test results shall be utilized as follows:
- 1) If the reading (which indicates the percentage of alcohol in a person's blood) is .10 or more, the person shall be presumed to be intoxicated, and shall be placed in protective custody at the police station or transferred to a facility.
  - 2) If the reading is .05 or less, the person shall be presumed not to be intoxicated and shall be released from custody immediately.
  - 3) If the reading is more than .05 and less than .10, no presumption based solely on the breathalyzer test shall be made. In this event, a reasonable test of coordination or speech coherency must be administered to determine if the person is intoxicated.
- e. Any person presumed intoxicated and to be held in protective custody at a police station shall, immediately after such presumption, have the right and be informed of the right to make a telephone call at his/her own expense and on his/her own behalf.
- f. Any person presumed intoxicated who is assisted by a police officer to a facility shall have the right to make one phone call at his/her own expense and on his/her own behalf and shall be informed forthwith upon arriving at the facility of said right. (See above Notice of Rights).
- g. The parent or guardian of any person under the age of eighteen to be held in protective custody at a police station shall be notified forthwith upon arrival at said station or as soon as possible thereafter. Upon the request of the parent or guardian, the juvenile or such person shall be released to the custody of the parent or guardian. [44.2.2 (b); 44.2.2 (e)]
- h. Nothing in these procedures shall be construed to require or permit a police officer to hold a person in protective custody against his/her will unless suitable treatment at a facility is not available. If such treatment is not available, the person may be held in protective custody at the station for the following periods, whichever is shorter:
- a) up to 12 hours;

- b) until he/she is no longer incapacitated.
- i. An officer may use such force as is reasonable and necessary to carry out the procedures herein.

#### C. SEARCH AND TRANSPORTATION

- i. An officer is authorized to make a search of an incapacitated person and his/her immediate surroundings whenever the following conditions exist: [1.2.4 (g)]
  - a. the officer reasonably believes that the officer's safety or the safety of other persons present requires the search; [1.2.4 (e)]
  - b. the search is limited to the extent necessary to discover any dangerous weapons that on that occasion may be used against the officer or other persons present. [1.2.4 (b)]

**NOTE:** The Massachusetts Supreme Judicial Court ruled in 1989 that a "pat down" search of an incapacitated individual who is being taken into protective custody which detected the presence of drugs was lawful. The Court ruled that the inevitable discovery exception to the exclusionary rule was applicable since the same evidence would have been inevitably discovered when an inventory search was conducted upon arrival at the police station. A similar result was obtained when the same Court in 1987 ruled that a gun discovered in a pat down search of an incapacitated individual was lawfully seized.

- ii. If an officer comes upon, or responds to a call in regard to, an incapacitated person, the officer shall be aware of and immediately consider the possibility of other ailments.
  - a. An incoherent, unsteady or unconscious person, for example, might be suffering from an epileptic seizure, insulin shock, diabetic coma, stroke, heart attack, or brain injury.
  - b. If the officer, relying on his/her own judgment and field experience, believes the above or similar conditions may be present, he/she shall immediately make arrangements for medical treatment in accordance with departmental procedures, as approved by the department's medical director. [72.6.1]
- iii. Officers shall extend the same considerations to an incapacitated person that they would offer to a person suffering from any other illness.

#### D. SAFEGUARDING AT POLICE STATION

- 1. An incapacitated person held in protective custody at the police station shall have the following property taken from him/her for safekeeping in accordance with departmental procedures: [1.2.4 (f)]
  - a. belts, shoe laces, drawstrings, neckties, neck chains, matches, and cigarette lighters;

- b. all other articles which may pose a danger or harm to such person or to others;
- c. personal property and other valuables.

**NOTE:** Such property shall be kept in a secure place, and an inventory shall be maintained.

- 2. An unconscious person shall never be placed in a cell unattended at any time. In such cases, immediate medical care shall be provided in accordance with departmental procedures.
- 3. The Officer-in-Charge, or his/her designee, shall take every precaution to ensure that all persons held in protective custody are prevented from harming themselves in any way by carefully observing them at intervals of not more than thirty (30) minutes. A record shall be maintained of the time of such observations in accordance with departmental procedures. [72.5.4; 72.8.1]

**NOTE:** Individuals who are released on bail following an arrest may be placed in protective custody if they are still "incapacitated" as defined in Chapter 111B. The foregoing considerations regarding release will govern a decision to release such individual from protective custody.

#### E. REPORTING REQUIREMENTS

- 1. A report of protective custody shall be made indicating the date, time, place of custody, the name of the assisting officer, the name of the Officer-in-Charge, whether the person held in custody exercised his/her right to make a phone call, whether the person held in custody exercised his/her right to take a breathalyzer test, and the results of the breathalyzer test, if taken. Such record shall not be treated, for any purposes, as an arrest or criminal record.
- 2. Officer(s) shall file a report indicating the nature of the incident which gave rise to any police involvement, the method of handling the problem, and any injuries observed on the incapacitated person including their cause and medical treatment, if any.
- 3. Officers should be aware that Massachusetts Law authorizes police officers (and certain other persons) to file a petition in an appropriate district court requesting that a person who is an alcoholic (or drug dependent person) be committed for a period not to exceed ninety (90) days to an in-patient public or private facility approved by the Department of Public Health. Where appropriate, police officers should advise the family and friends of a problem alcoholic of the procedures available under this law.

**NOTE:** Police officers are immune from civil suits for damages for restraining, transporting, applying for the admission or admitting any person to a facility if the officer acts pursuant to the provisions of Chapter 123.

#### F. TESTS FOR DETERMINING INTOXICATION

**Balance:** Have the subject stand on one foot with his/her arms outstretched; repeat with the other foot. Next, have the subject stand with his/her feet together, arms by his/her side, and eyes closed. Note any loss of balance, swaying, and jerky motions by the subject.



**Walking & Turning:**

Have the subject walk, in a heel to toe manner, a straight line of about 20 feet. Just before the subject reaches the end of the line, direct him to quickly turn and walk heel to toe back to the starting point. Note any deviations from the line by the subject as well as any difficulty or loss of balance experienced by him in walking and turning.

**Finger to Nose:**

Have the subject stand with his/her feet together, arms extended to the side, and eyes closed. Direct him/her to touch the tip of his/her nose with the index finger of his/her right hand; repeat with the left index finger. Note if and where the index fingers touch and the degree of certainty with which the subject moves.

**Alphabet:** Ask the subject to recite the alphabet (A to Z) and note any omissions or difficulties.

**Indications of Alcohol Consumption:** Only persons who are incapacitated by consumption of alcohol (not other drugs) may be taken into protective custody under this section. In addition to conducting tests to determine intoxication, officers must be careful to observe and make note of all indications that the intoxication is due to the consumption of alcohol. The odor of alcoholic beverages on the subject's breath; the presence of open alcoholic beverage containers on his/her person or in his/her car when stopped; any admission by the subject that he/she has been drinking or is drunk; any statements to the same effect by his/her companions and any other indications of alcohol use should be so noted.

## **II. INCAPACITATED BY DRUGS AND SUBSTANCES OTHER THAN ALCOHOL**

### **A. DEFINITIONS**

- 1. Acute Care Hospital:** Any hospital licensed under G.L. c. 111, § 51, and the teaching hospital of the University of Massachusetts Medical School, which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department.
- 2. Incapacitated:** The condition of a person who, by reason of the consumption of a controlled substance or toxic vapor or other substance other than alcohol is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly. For the purposes of this Policy and consistent with the guidance issued by the Executive Office of Public Safety and Security along with the Municipal Police Training Committee, a person who has been administered nasal naloxone in connection with a drug overdose is still deemed to be "incapacitated" as a person "in need of medical attention".
- 3. Satellite Emergency Facility:** A health care facility that operates on a 7 day per week, 24 hour per day basis, that is located off the premises of a hospital, but is listed on the license of the hospital, which is authorized to accept patients transported to the facility by ambulance.

### **B. TAKING CUSTODY**

1. In the absence of an accompanying crime, an officer shall not arrest an incapacitated person. If the situation does not warrant an arrest, but action is necessary, a police officer has the authority to place an incapacitated person into protective custody and transport the incapacitated person, with or without his/her consent, to an acute care hospital or satellite emergency facility or otherwise to immediately obtain appropriate emergency medical treatment.
2. In order to determine whether or not a person is incapacitated, an officer may request such person to submit to reasonable tests of coordination, coherency of speech, and breath. Examples of such tests are listed at the end of Section II of this Policy and Procedure. A police officer may place the person into protective custody when such tests or other information or observations indicate that the person is incapacitated.
3. A person taken into protective custody for incapacitation shall not be taken to the police station and must be immediately transported to an acute care hospital or satellite emergency facility or otherwise to immediately obtain appropriate emergency medical treatment.
4. Nothing in these procedures shall be construed to require or permit a police officer to hold a person in protective custody against his/her will beyond the time required to complete the person's immediate transport to an acute care hospital or satellite emergency facility or otherwise to immediately obtain appropriate emergency medical treatment.
5. An officer may use such force as is reasonable and necessary to carry out the procedures herein.

#### C. SEARCH AND SEIZURE

1. An officer is authorized to make a search of an incapacitated person and his/her immediate surroundings whenever the following conditions exist:
  - a. the officer reasonably believes that the officer's safety or the safety of other persons present requires the search; [1.2.4 (e)]
  - b. the search is limited to the extent necessary to discover any dangerous weapons that on that occasion may be used against the officer or other persons present. [1.2.4 (b)]
2. Any item taken shall be inventoried and secured, and, unless the item is contraband or otherwise unlawfully possessed, shall be returned to the person when the person is no longer incapacitated.
3. If the officer discovers contraband or items unlawfully possessed on the incapacitated person, the officer shall take the appropriate actions to charge the person with the possession of such items. The primary consideration of the officer, however, should remain on immediately transporting the individual to an acute care hospital or satellite emergency facility or otherwise to immediately obtain appropriate emergency medical treatment. Officers shall not, however, charge an individual with possession of a controlled substance under G.L. c. 94C, §§ 34 or 35, if that person in good faith, seeks medical assistance for themselves or another person who is experiencing a drug-related overdose.

#### D. TRANSPORTATION

1. The officer shall immediately call emergency medical services upon making a determination that an individual is incapacitated. The officer shall direct that emergency medical services personnel transport the incapacitated person. If emergency medical services personnel transports the incapacitated person, the officer should accompany the incapacitated person in the emergency medical services vehicle, or in the alternative, otherwise escort the emergency medical services vehicle to the destination. [61.3.3]
2. Unless articulable exigent circumstances exist in which an incapacitated person cannot be transported by emergency medical services personnel, officers shall not transport an incapacitated person in police vehicles. If such circumstances exist as to require the transport of an incapacitated person in a police vehicle, the transporting officer shall adhere to the departmental policies and procedures relative to the transport of an individual in a police vehicle. [70.3.2; 70.5.1]
3. Before transporting an incapacitated person, the Officer-in-Charge shall be notified so that he/she may arrange for assistance, if available.
4. At the destination, the officer shall escort incapacitated person into the facility, request that the person be evaluated, and relinquish custody of the person to facility personnel. [71.6.6]
5. If an officer comes upon, or responds to a call in regard to, an incapacitated person, the officer shall be aware of and immediately consider the possibility of other ailments.
  - a. An incoherent, unsteady or unconscious person, for example, might be suffering from an epileptic seizure, insulin shock, diabetic coma, stroke, heart attack, or brain injury.
  - b. If the officer, relying on his/her own judgment and field experience, believes the above or similar conditions may be present, he/she shall immediately make arrangements for medical treatment in accordance with departmental procedures.
6. Officers shall extend the same considerations to an incapacitated person that they would offer to a person suffering from any other illness.
7. Whenever an officer places into protective custody a person under the age of 18, the officer shall notify the parent or guardian of that person immediately.

#### E. REPORTING REQUIREMENTS

1. Once the transport is complete, a report of protective custody shall be made indicating the date, time, place of custody, the name of the assisting officer, the name of the Officer-in-Charge, the nature of the incident which gave rise to any police involvement, the method of handling the problem, what the officer relied upon in determining that the person was incapacitated, what modes of transport were requested, what mode of transport was made, the location to which the person was transported, any exigent circumstances justifying a different mode of transport, and any injuries observed on the incapacitated person including their cause and medical treatment, if any, and the facility personnel to whom the officer relinquished custody of the incapacitated person. A

sample REPORT OF SECTION 9A PROTECTIVE CUSTODY form is attached to this policy.

2. Such record shall not be treated, for any purposes, as an arrest or criminal record.
3. Police should be aware that Massachusetts Law authorizes police officers (and certain other persons) to file a petition in an appropriate district court requesting that a person who is a drug dependent person be committed for a period not to exceed fifteen days to an in-patient public or private facility approved by the Department of Public Health. Where appropriate, police officers should advise the family and friends of a problem alcoholic of the procedures available under this law.

**NOTE:** Police officers are immune from civil suits for damages for restraining, transporting, applying for the admission or admitting any person to a facility if the officer acts pursuant to the provisions of Chapter 123.

#### E. TESTS FOR DETERMINING INTOXICATION

**Balance:** Have the subject stand on one foot with his/her arms outstretched; repeat with the other foot. Next, have the subject stand with his/her feet together, arms by his/her side, and eyes closed. Note any loss of balance, swaying, and jerky motions by the subject.

**Walking & Turning:** Have the subject walk, in a heel to toe manner, a straight line of about 20 feet. Just before the subject reaches the end of the line, direct him to quickly turn and walk heel to toe back to the starting point. Note any deviations from the line by the subject as well as any difficulty or loss of balance experienced by him in walking and turning.

**Finger to Nose:** Have the subject stand with his/her feet together, arms extended to the side, and eyes closed. Direct him to touch the tip of his/her nose with the index finger of his/her right hand; repeat with the left index finger. Note if and where the index fingers touch and the degree of certainty with which the subject moves.

**Alphabet:** Ask the subject to recite the alphabet (A to Z) and note any omissions or difficulties.

## REPORT OF SECTION 9A PROTECTIVE CUSTODY

Date: Time: Incident #: Location Where Assistance was Provided:	Assisting Officer: Officer in Charge: Shift Supervisor:
ASSISTANCE PROVIDED TO:  Name:  Address:  Gender:  Telephone number:  Date of Birth:  SSN:	
Describe the nature of the incident giving rise to police assistance:	
Actions taken by the assisting officer:	
In making the decision to assist the person identified above, the officer made the following observations and/or relied upon the following information:	
Transport requested by:  Form of transport requested:  Form of transport provided:  If form of transport provided differed from the form of transport requested, explain why:  If transport was <u>not</u> provided by EMS personnel, explain why:  Transported by:  Was the transport escorted by police personnel?    Yes    No  If yes, who escorted the transport?	

Where was the escorting officer?    In the transport    In another vehicle

Time of transport departure:

Time of transport arrival:

Transported to:

Evaluated by:

Custody relinquished to:

Was the assisted person searched?    Yes    No

If yes, did the assisting officer take any personal property from the person?    Yes    No

If yes, what was taken from the person?

Has this property been inventoried?    Yes    No

Is this property secured?    Yes    No

Location where the property is secured:

Will this property be returned to the person?    Yes    No

If not, why:

What was the justification for this search?

Was forced used to accomplish the assistance?    Yes    No

Corresponding Use of Force Report Number:

Assisting Officer Signature: \_\_\_\_\_

OIC Signature: \_\_\_\_\_

Date:

# PROTECTIVE CUSTODY

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>3.06</b>	ISSUE DATE: <b>1/28/20</b>
<b>Training Bulletin</b>	EFFECTIVE DATE: <b>1/28/20</b>
	REVISION DATE: _____

## INCAPACITATED BY ALCOHOL

### GENERAL PRINCIPLES

Any person:

**I.** who is **incapacitated**

- A. ***“Incapacitated”***, the condition of an intoxicated person who, by reason of **the consumption of intoxicating liquor** is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly.

**II.** may be ***assisted*** by a **Police Officer**

**III.** with or without his/her consent to:

- B. his/her **Residence**,

- C. a **Facility** or

1. ***“Facility”***, any public or private place, or portion thereof, providing services especially designed for the detoxification of intoxicated persons or alcoholics.

D. a Police Station.

**IV.**        [Sobriety Test] To determine for purposes of this chapter only, whether or not such person is intoxicated, the police officer

- may request the person to submit to reasonable tests of:
  - coordination,
  - coherency of speech, and
  - breath.

#### RIGHT TO BREATH TEST

Any person *assisted* by a police officer to a police station

- shall have the right, and be informed in writing of said right,

**VI.**        to request and be administered a breathalyzer test.

**BREATH TEST RESULTS  $\geq$  .10:** Any person who is administered a breathalyzer test

**VII.**        shall be presumed intoxicated if evidence from said test indicates that the percentage of alcohol in his/her blood is ten one hundredths or more and

- Shall be placed in Protective Custody at a Police Station or

**IX.**        transferred to a Facility.

**BREATH TEST RESULTS  $\leq$  .05:** Any person who is administered a breathalyzer test, under this section,

- Shall be presumed not to be intoxicated if evidence from said test indicates that the percentage of alcohol in his/her blood is five one hundredths or less and
- Shall be released from custody forthwith.



**BREATH TEST RESULTS >.05 and <.10:** If any person who is administered a breathalyzer test, under this section, and evidence from said test indicates that the percentage of alcohol in his/her blood **is more than five one hundredths and is less than ten one hundredths**

**XII.** there **shall be no presumption** made based solely on the breathalyzer test.

**XIII.** In such instance a reasonable test:

F. of coordination **or**

G. speech coherency

- **must be administered** to determine if said person is intoxicated.
- **Only when such test of coordination or speech coherency** indicates said person is intoxicated

J. Shall be placed in **Protective Custody** at a **Police Station or**

K. transferred to a **Facility**.

#### **RIGHT TO A PHONE CALL AT POLICE STATION**

Any person presumed intoxicated and to be held in protective custody at a police station

- **shall, immediately after such presumption,** [breathalyzer]
- have the right **and**
- be informed of said right
- to make one phone call at his/her own expense and on his/her own behalf.

#### **RIGHT TO A PHONE CALL AT A FACILITY**

Any person assisted by a police officer to a facility under this section

- shall have the **right to make one phone call** at his/her own expense on his/her own behalf
- and **shall be informed forthwith upon arriving at the facility** of said right.

#### PARENT NOTIFIED OF JUVENILE <18

- The parent or guardian of any person, **under the age of eighteen**, to be held in protective custody at a police station **shall be notified forthwith** upon his/her arrival at said station or as soon as possible thereafter.

#### NOTIFICATION OF FACILITY

- If any incapacitated person is assisted to a police station,
- the officer in charge or his/her designee
- shall notify forthwith the nearest facility that the person is being held in protective custody.
- If suitable treatment services are available at a facility,
- the department shall thereupon arrange for the transportation of the person to the facility in accordance with the provisions of section seven.

#### TWELVE (12) HOUR CUSTODIAL LIMITATION

**XXVI.** No person assisted to a police station pursuant to this section shall be held in protective custody against his/her will;

**XXVII.** provided, however, that if suitable treatment at a facility is not available,

**XXVIII.** an incapacitated person may be held in protective custody at a police station **until he/she is no longer incapacitated or**

L. for a period of **not longer than twelve (12) hours**,

- **whichever is shorter**.

#### **REASONABLE FORCE / SEARCH FOR WEAPONS**

- A police officer acting in accordance with the provisions of this section
- ***may*** use **such force as is reasonably necessary** to carry out his/her authorized responsibilities.
- If the police officer **reasonably believes that his/her safety** or the safety of other persons present so requires,
  - he **may search such person** and his/her immediate surroundings,
  - but only to the extent necessary to **discover and seize any dangerous weapons which may on that occasion be used against the officer** or other person present;
  - provided, however, that if such person is held in protective custody at a police station all valuables and all articles which may pose a danger to such person or to others may be taken from him for safekeeping and if so taken shall be inventoried.

#### **NOT CLASSIFIED AS AN ARREST**

- A person assisted to a facility or held in protective custody by the police pursuant to the provisions of this section, **shall not be considered to have been arrested** or **to have been charged with any crime**.

#### **POLICE REPORT SHALL INCLUDE**

- An entry of custody [Report Narrative] shall be made indicating
  - the date, time, place of custody,
  - the name of the assisting officer,
  - the name of the officer in charge,

- whether the person held in custody exercised his/her right to make a phone call,
- whether the person held in custody exercised his/her right to take a breathalyzer test,
- and the results of the breathalyzer test if taken, and
- any injuries observed on the person including their cause and medical treatment, if any,
- which entry shall not be treated for any purposes, as an arrest or criminal record.

**EXAMPLE: PROTECTIVE CUSTODY NARRATIVE WITH THE REQUISITE STATUTORY ELEMENTS INCLUDED**

On the stated date and time Officers Pyle and Fife had occasion to be in the area of Bellingham Square on Hawthorne Street near the benches in front of Bunker Hill Community College. While in stated area Officers observed an individual known to them as Otis Campbell seated on the bench who appeared to be in need of **assistance** and who also appeared to be in an apparent **intoxicated state**.

Upon further investigation Officers observed that Mr. Campbell was leaning slightly to his left and when was asked if he needed **assistance** responded in an **incoherent manner**. Further, Officers observed that Campbell had bloodshot eyes and had a strong odor of alcoholic beverage emanating from his person. When Mr. Campbell was asked to stand so that Officers could attempt to **evaluate his level of coordination** he became **extremely unsteady on his feet**, lost his balance and had to be **assisted by the Officers** so as not to injure himself.

Based on the aforementioned observations Officers formed the preliminary opinion that Mr. Campbell was possibly **incapacitated** due to his possible **overconsumption of alcoholic beverages**. As a result he was **assisted to Chelsea Police Headquarters** to conduct a **follow up** as to his specific level of intoxication. Once at Headquarters, Campbell was afforded his **right to an examination of his breath** on the department's certified breath instrument however, due to his level of intoxication Mr. Campbell was unable to adequately perform the offered test. Mr. Campbell was also afforded his **right to a phone call** upon immediate arrival at Police Headquarters but refused to exercise said right (or was unable to provide a phone number or dial the number himself).

The Officer in Charge, Lieutenant Andy Taylor, attempted to **notify an area facility for suitable treatment** however was informed that there were no beds available. Officers decided it would be **unsafe to transport** Mr. Campbell directly to his **residence** due to

his level of intoxication and instead placed him in ***Protective Custody*** at Police Headquarters for a period ***not to exceed 12 hours or until he was no longer intoxicated (whichever period was shorter)***. Mr. Campbell was informed that he was ***not under arrest*** and would be ***released forthwith when he was no longer intoxicated but in no event not longer than 12 hours***.

Prior to being placed in the cell Mr. Campbell was ***searched for any possible weapons*** to no avail. All of Mr. Campbell's ***personal property*** was ***secured for safe keeping***, inventoried and locked in Property Locker number 7 until such time as when he is released.

Respectfully Submitted:

***Officer Fife***

## INCAPACITATED BY DRUGS AND SUBSTANCES OTHER THAN ALCOHOL

### GENERAL PRINCIPLES

Any person:

**XXXVI.** who is **incapacitated**

W. "**Incapacitated**", the condition of an intoxicated person who, by reason of the consumption of **a controlled substance or toxic vapor or other substance other than alcohol** is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly.

**XXXVII.** may be ***assisted*** by a **Police Officer**

**XXXVIII.** with or without his/her consent to:

X. an **Acute Care Hospital**, or

5. ***“Acute Care Hospital”***, any hospital licensed under G.L. c. 111, § 51, and the teaching hospital of the University of Massachusetts Medical School, which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department.

Y. a **Satellite Emergency Facility**, or

6. ***“Satellite Emergency Facility”***, a health care facility that operates on a 7 day per week, 24 hour per day basis, that is located off the premises of a hospital, but is listed on the license of the hospital, which is authorized to accept patients transported to the facility by ambulance.

Z. Otherwise immediately obtain appropriate **Emergency Medical Treatment**.

AA. A PERSON TAKEN INTO PROTECTIVE CUSTODY UNDER THIS SECTION SHALL NOT BE TAKEN TO THE POLICE STATION OR THE PERSON’S RESIDENCE.

**XXXIX.** **[Incapacity Testing]** To determine for purposes of this chapter only, whether or not such person is **incapacitated**, the police officer

- **may request** the person to submit to reasonable tests of:
  - coordination,
  - coherency of speech, **and**
  - breath.

#### **PARENT NOTIFIED OF JUVENILE <18**

- The parent or guardian of any person, **under the age of eighteen**, to be taken into protective custody under this section **shall be notified forthwith** upon his/her arrival at the particular location or as soon as possible thereafter.

#### **REASONABLE FORCE / SEARCH FOR WEAPONS**

- A police officer acting in accordance with the provisions of this section
- **may** use **such force as is reasonably necessary** to carry out his/her authorized responsibilities.
- If the police officer **reasonably believes that his/her safety** or the safety of other persons present so requires,

- he/she **may search such person** and his/her immediate surroundings,
- but only to the extent necessary to **discover and seize any dangerous weapons which may on that occasion be used against the officer** or other person present;
- Any items taken shall be inventories and, unless the item is contraband or otherwise unlawfully possessed, shall be returned to the person when the person is no longer incapacitated.

## **TRANSPORT**

- If the officer determines that a person is **incapacitated** under this section, the officer **shall**:
  - **immediately call** emergency medical services;
  - **notify** the officer-in-charge;
  - **direct** emergency medical services personnel to **transport** the incapacitated person;
    - if emergency medical services personnel transports the incapacitated person, the officer **should accompany** the person in the emergency medical services vehicle, **or escort** the emergency medical services vehicle to the destination.
    - officers **shall not** transport an incapacitated person in a police vehicle **unless articulable exigent circumstances** exist in which an incapacitated person cannot be transported by emergency medical services personnel.
  - At the destination, **escort** the incapacitated person **into the facility**, **request the person be evaluated** and **relinquish custody to facility personnel**.

## **NOT CLASSIFIED AS AN ARREST**

- A person placed into protective custody pursuant to the provisions of this section, **shall not be considered to have been arrested** or **to have been charged with any crime**.

## **POLICE REPORT SHALL INCLUDE**

- An entry of custody [Report Narrative] shall be made indicating
  - the date, time, place of custody,

- the name of the assisting officer,
  - the name of the officer in charge,
  - the method of handling the problem,
  - what the officer relied upon in determining that the person was incapacitated,
  - what modes of transport were requested,
  - what mode of transport was made,
  - the location to which the person was transported,
  - any exigent circumstances justifying a different mode of transport,
  - any injuries observed on the person including their cause and medical treatment, if any,
  - the medical personnel who evaluated the person, and
  - the medical personnel to whom the officer relinquished custody of the incapacitated person;
- which entry shall not be treated for any purposes, as an arrest or criminal record.

**EXAMPLE: PROTECTIVE CUSTODY NARRATIVE WITH THE REQUISITE STATUTORY ELEMENTS INCLUDED**

On the stated date and time, I, Officer Hank Schrader, had occasion to be in the area of Bellingham Square on Hawthorne Street near the benches in front of Bunker Hill Community College. While in stated area, I observed an individual known to me as Jesse Pinkman seated on the bench who appeared to be in need of **assistance** and who also appeared to be in an apparent **incapacitated state**.

Upon further investigation, I observed that Mr. Pinkman was bent over at the waist with his head hanging between his knees and swaying in an erratic manner. When I asked Mr. Pinkman if he needed **assistance**, he did not respond. After I continued to attempt to communicate with Mr. Pinkman to determine if he needed assistance, he responded in an **incoherent manner**. Further, observed that Pinkman had pinpoint pupils and appeared to have trouble breathing. When Mr. Pinkman was asked to stand so that I could attempt to **evaluate his level of coordination** he became **was unresponsive and unable to do so**. Based upon my training and experience as a police officer, I formed the opinion that Mr. Pinkman **was in need of medical attention and suffering from an opioid overdose**. I immediately radioed for emergency medical services. I thereafter treated Mr. Pinkman with nasal naloxone and followed all procedures pursuant to Department Policy No. \_\_. Mr. Pinkman responded to the treatment, became alert and seemed confused as to what had occurred. When the emergency medical services personnel arrived shortly thereafter, I informed them of the treatment rendered and they sought to further treat Mr. Pinkman. Mr. Pinkman refused treatment and refused transport to Massachusetts General Hospital (MGH). I thereafter **placed Mr. Pinkman into protective custody pursuant to G.L. c. 111E, § 9A** as Mr. Pinkman was **still in need of medical attention**, and **ordered that he be transported to MGH** against his will. I informed my supervisor, Sergeant George Merkert, of the situation, secured my vehicle



pursuant to department policy, and escorted Mr. Pinkman to MGH in the emergency medical services vehicle.

Upon arrival at MGH, ***I escorted Mr. Pinkman inside, spoke with Dr. Delcavoli and advised him of the situation.*** We spoke with Mr. Pinkman together and explained why he should receive medical treatment. Mr. Pinkman thereafter consented to receive treatment and was admitted. I thereafter returned to retrieve my vehicle, which remained secured and in the custody of Sergeant Merkert.

Respectfully Submitted:

***Officer Schrader***